

RECEIVED  
CENTRAL FAX CENTER

003/131

AUG 02 2012

PTO/SB/66 (03-06)

Approved for use through 03/31/2012. OMB 0661-0016

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF  
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(a))**

Docket Number (Optional)

08/03/2004 DAILEN 00000011 120769 677207

Mail to: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450  
Fax: (571) 273-8300

01 FC:1599

02 FC:1462

250.00 DA

3550.00 OP

150.00 OP

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at  
(571) 272-3282.

Patent Number: 6,772,077Application Number: 09/762,562Issue Date: 08/03/2004Filing Date: 02/13/2002

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.368(c) and (d).

Also complete the following information, if applicable:

The above-identified patent:

☐ is a reissue of original Patent No. \_\_\_\_\_ original issue date \_\_\_\_\_:  
original application number \_\_\_\_\_  
original filing date \_\_\_\_\_

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application  
\_\_\_\_\_ filed on \_\_\_\_\_

**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is

(1) being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 OR

(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

August 2, 2012

Date



Signature

Cheryl A. Simon

Typed or printed name of person signing Certificate

[Page 1 of 4]

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

RECEIVED  
CENTRAL FAX CENTER

004/131

AUG 02 2012

PTO/SB/05 (03-09)

Approved for use through 03/31/2012. OMB 0661-0016  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## 1. SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27

## 2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

## 3. MAINTENANCE FEE (37 CFR 1.20(a)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 ½ yr fee	(1551)	<input type="checkbox"/> \$ _____	3 ½ yr fee	(2551)
<input checked="" type="checkbox"/> \$ 2850.00	7 ½ yr fee	(1552)	<input type="checkbox"/> \$ _____	7 ½ yr fee	(2552)
<input type="checkbox"/> \$ _____	11 ½ yr fee	(1553)	<input type="checkbox"/> \$ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ 2850.00

## 4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(1) of \$ 700.00 (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.

SURCHARGE FEE BEING SUBMITTED \$ 700.00

## 5. MANNER OF PAYMENT

- ☐ Enclosed is a check for the sum of \$ \_\_\_\_\_
- ☐ Please charge Deposit Account No. \_\_\_\_\_ the sum of \$ \_\_\_\_\_
- ☒ Payment by credit card. Form PTO-2038 is attached.

## 6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

- ☒ The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. 12-0769

[Page 2 of 4]

RECEIVED  
CENTRAL FAX CENTER

AUG 02 2012

PTO/SB/66 (03-09)

Approved for use through 03/31/2012. OMB 0651-0018  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1996, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## 7. OVERPAYMENT

As to any overpayment made, please

☒ Credit to Deposit Account No. 12-0769

OR

☐ Send refund check

## WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

## 8. SHOWING

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

## 9. PETITIONER(S) REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.

DAVID A. DIVINE  
#58,213 Signature(s) of Petitioner(s)

AUGUST 2, 2012  
Date

David A. Divine

51275

Typed or printed name(s)

Registration Number, if applicable

601 W Riverside, Suite 1400

509-324-9256

Address

Telephone Number

Spokane WA 99201

Address

## ENCLOSURES:

- ☒ Maintenance Fee Payment  
☒ Statement why maintenance fee was not paid timely  
☒ Surcharge under 37 CFR 1.20(l)(1) (fee for filing the maintenance fee petition)  
☒ Other: Surcharge under 37 CFR 1.2(h)

RECEIVED  
CENTRAL FAX CENTER

AUG 02 2012

PTO/SB/85 (03-89)  
Approved for use through 03/31/2012. OMB 0851-0016  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1996, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

David A. Divine #58,213 FOR DAVID A. DIVINE  
Signature

August 2, 2012

Date

David A. Divine

Type or printed name

51275

Registration Number, if applicable

STATEMENT

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.)

See attached petition.

(Please attach additional sheets if additional space is needed)

[Page 4 of 4]



RECEIVED  
CENTRAL FAX CENTER

AUG 02 2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)	
Patent No.	6,772,077
Application Serial Number	09/762,562
Confirmation Number	8817
Filing Date	February 13, 2002
Title of Application	Electric Arc Monitoring Systems
First Named Inventor	PARKER, Michael T.
Assignee	Telect Inc.
Group Art Unit	2857
Examiner	Raymond, Edward
Attorney Docket Number	TL1-0095US

To: Mail Stop Petitions  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

From: David A. Divine (Tel. 509-324-9256; Fax 509-323-8979)  
Lee & Hayes, PLLC  
601 W. Riverside Ave, Suite 1400  
Spokane, WA 99201

Customer Number 29150

**Petition Under 37 CFR § 1.378(e) for Reconsideration of Dismissal of**

**Petition to Accept Unavoidably Delayed Payment of Maintenance Fee**

Fees will be paid by credit card authorization by facsimile; however, Petitioner hereby authorizes the Commissioner to charge any deficiency of fees and credit any overpayments to Deposit Account Number 12-0769.

Remarks begin on page 2 of this document.

Exhibits begin on page 27 of this document.

August 2, 2012

1

TL1-0095US / US Patent No. 6,772,077

### Remarks

Petitioner received a June 5, 2012 Decision (the "Decision") (Exhibit A) on the Petition under 37 CFR § 1.378(b), filed April 12, 2012 (the "Original Petition") (Exhibit B) to accept an unavoidably delayed payment of maintenance fee for U.S. Patent No. 6,772,077 (the "077 Patent"). The Decision indicated that the Original Petition lacked an adequate showing that the delay was unavoidable. *Decision*, pg. 1, last paragraph.

Petitioner submits this Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to Accept Unavoidably Delayed Payment of Maintenance Fee (the "Petition for Reconsideration") with Exhibits referenced herein. The Petition for Reconsideration and Exhibits provide an adequate showing that the delay was unavoidable, since reasonable care was taken to insure that the maintenance fee would be paid timely.

The Petition for Reconsideration is being filed within the two-month period for response set in the Decision, and is accompanied by:

- (1) the petition fee of \$400 as set forth in 37 CFR § 1.17(f), and
- (2) ninety-two (92) pages of Exhibits demonstrating an exhaustive attempt to provide the items noted as lacking in the Decision.

This Petition for Reconsideration meets all of the requirements of a grantable petition under 37 CFR § 1.378(b), which recites:

(b) Any petition to accept an unavoidably delayed payment of a maintenance fee filed under paragraph (a) of this section must include:

- (1) the required maintenance fee set forth in § 1.20(e) – (g);
- (2) the surcharge set forth in § 1.20(i)(1); and

August 2, 2012

2

TL1-0095US / US Patent No. 6,772,077

(3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

This petition specifically addresses each of the deficiencies noted in the Decision. The Decision indicates that in order to satisfy 37 CFR § 1.378(b), Petitioner must show that:

1) petitioner knew of the need to make the maintenance fee payment, 2) implemented a reliable docketing system to track the relevant dates, 3) treated the payment of the maintenance fee (and later the filing of a petition to reinstate) as his most important business, 4) was prevented from making the payment, and 5) . . . the entire delay in making the payment and submitting a grantable petition was unavoidable.

*Decision*, pg. 3, first paragraph in the section entitled "Application of the Unavoidable Standard."

The following exhaustive discussion begins by addressing items (1)-(5) in turn. In the course of addressing items (1)-(5), the discussion also addresses each of the specific deficiencies noted in the Decision. This discussion shows that the delay in paying the maintenance fee was, in fact, unavoidable.

**1) Petitioner knew of the need to make the maintenance fee payment**

The maintenance fee on the '077 Patent was due August 3, 2008. The Decision acknowledges in the last paragraph on page 3 that "petitioner has established that they knew of the need to pay the maintenance fees," as required by item (1) above.

**2) Petitioner Implemented a reliable docketing system to track the relevant dates**

Patentee is entitled to reinstatement of its patent only by demonstrating that the failure to pay the fee was "unavoidable." See *Burandt v. Dudas*, 496 F.Supp.2d 643, 652 (E.D. Va 2007). An error in a docketing system may result in an unavoidable delay if "reasonable care was exercised in designing and operating the system and . . . the patentee took reasonable steps to ensure that the patent was entered into the system to ensure timely payment of the maintenance fees." MPEP § 2590 (I). "If unexpectedly, or through the unforeseen fault or imperfection of [ordinary and trustworthy] agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable." *In re Mattfullath*, 38 App. D.C. 497, 514-15 (D.C. Clr. 1912). An adequate showing is made by proving that the docket clerk and/or her supervisors, in spite of errors, acted with . . . reasonable care and diligence. See *HI/FN v. Dudas*, 2009 WL 192590 (N.D. Ca 2009).

In this section, Petitioner establishes: (A) that Petitioner has implemented a reliable docketing system to track maintenance fee due dates, (B) that Petitioner acted with reasonable care and diligence implementing a standard procedure for entering patents in the docketing system and for docketing maintenance fees, (C) that the instant patent was entered into the docketing system, (D) that Patentee, Telect, Inc. conveyed its desire to pay the maintenance fees, (E) that the failure to submit the maintenance fee on time was due to an unforeseeable human docketing error. Subsections (A)-(E) address many of the specific deficiencies noted in the Decision.

*(A) Petitioner has implemented a reliable docketing system to track maintenance fee due dates*

Lee & Hayes has used PerfectLaw to conduct its docketing since 2004. See statement of Rachel Murphy, Lee & Hayes' Database Administrator, describing Lee & Hayes' relationship with PerfectLaw, which is attached as Exhibit C. PerfectLaw provides docketing systems and services to numerous law firms and legal departments nationwide, as shown by the PerfectLaw website (<http://www.PerfectLaw.com/default.asp>). An excerpt about PerfectLaw is attached as Exhibit D.

Lee & Hayes has employed at least one person to perform database management and to liaise with PerfectLaw since 2004. Exhibit C. Among other capabilities, PerfectLaw provides a portal for Lee & Hayes' database and reporting personnel to access file records via SQL queries. Lee & Hayes' personnel have performed SQL queries to ascertain the number of files for which Lee & Hayes manages maintenance fees. Exhibit C. According to queries undertaken by Lee & Hayes' Database Administrator, 49 patents met the following criteria as of March 16, 2007. Exhibit E (see bottom right corner, showing 49 rows). These 49 patents had issued on or before the respective date, were opened in Lee & Hayes' database on or before that same date, and had pending maintenance fees on the docket that have since been completed. The queries show that as of August 1, 2012, 209 patents meet the criteria. Exhibit F (see bottom right corner, showing 209 rows). Screenshots of the SQL queries performed by Lee & Hayes' Database Administrator are attached as

August 2, 2012

5

TL1-0095US / US Patent No. 6,772,077

Exhibits E and F, and a signed statement by Rachel Murphy, Lee & Hayes' Database Administrator is attached as Exhibit C.

*(B) Petitioner acted with reasonable care and diligence implementing a standard procedure for entering patents in the docketing system and for docketing maintenance fees*

This subsection describes the procedures Lee & Hayes had in place at the relevant times for performing clerical functions which can reasonably be relied upon to avoid errors.

When a portfolio is transferred to Lee & Hayes, docketing personnel open a new matter in PerfectLaw for each pending patent application and each issued patent contained within the portfolio, as indicated by the client or the former law firm of the client. See Exhibit G. Each matter opened in PerfectLaw is reviewed by another member of the docketing team to ensure that the matter was opened properly and that the docketing for the matter is correct. Each matter is individually reviewed and the docket dates verified. If any questions or irregularities arise upon the opening or review of a matter, a member of the docketing team refers the question to the attorney to whom the matter has been assigned in order to receive additional information or clarification.

PerfectLaw includes a feature (called a "rule") used by Lee & Hayes to schedule docket items of matters. When a matter is transferred in, if there are pending due dates with the U.S. Patent and Trademark Office (the "USPTO"), the appropriate rule is run. This automatically populates the "Appointments" portion of PerfectLaw with docket items referencing the pending due dates. The rule only populates the "Appointments"

portion with docket items referencing pending items, not items that have previously been completed or passed. For a matter being opened for an issued patent, such as the '077 Patent, the rules "P-IN" (Issue notification) and "P-TRSFR" (transfer in) should have been run, however only the "P-TRSFR" rule was run in this case. Exhibit H illustrates the training that has been provided to Lee & Hayes docketing personnel. Exhibit H1 is a screenshot of the "P-IN," Issue Notification rule. Also shown in H1 are the intervals used by the rule and the activity designation given to the docket items generated. Exhibit H2 shows the generation of docket items before confirmation and entry. The "base date" corresponds to the issue date, which for purposes of this example is set to 6/1/2012. Members of the docketing team at Lee & Hayes manually enter the base date, and the rule then calculates the docket item dates. Exhibit H3 shows how a case that issued in May, 2011 appears in the system. Exhibit H4 shows what is displayed upon selection of the docket item scheduled on 11/24/2014. Exhibit H5 is a display of the "Reminders and Other" tab of the case shown in Exhibit H4. Furthermore, Exhibit I shows a powerpoint presentation, from February 2007, on running rules in PerfectLaw (AIM is the Attorney's Information Manager of PerfectLaw).

Further, when Lee & Hayes receives an Issue Notification for a client for which Lee & Hayes pays maintenance fees, the docketing team runs the rule (Rule Code: "P-IN") for issued matters which populates the "Appointments" portion with docket items referencing the maintenance fee due dates, and adds tasks for reminders to the client. For a matter that is transferred in after it has already issued, the Issue Notification rule ("P-IN") is run when the matter is opened, thereby populating the "Appointments" portion with docket items referencing any pending due dates including maintenance fee due dates.

Items in PerfectLaw coded as "Activity" equal to "DLN" are secured so that only members of the docketing team can mark them completed. This ensures that the docketing items cannot accidentally be canceled or marked completed. Paralegals handle filings and then provide electronic filing system (EFS) receipts, fax confirmations, or proof of mailings to the docketing team in order to complete a docket item. All docket items referencing pending due dates bear the "DLN" designation according to the rule set up. Docket items referencing any pending due dates including maintenance fee dates are secured in this fashion.

All employees who engage in docketing responsibilities at Lee & Hayes are given on-the-job training. Exhibit J lists various documents used in docketing training for PerfectLaw; see also Exhibits H and I. Exhibit J also mentions Anaqua, which is a software used by a Lee & Hayes client, which is not applicable to the Telect portfolio. New docketing employees receive oversight that is additional to the standard review process Lee & Hayes uses for all docketing. This on-the-job training has proven to be adequate, as demonstrated by the number of U.S. maintenance fees and other docket items successfully managed by Lee & Hayes.

On March 16, 2007, Lee & Hayes was responsible for the maintenance fees of 49 U.S. Patent matters. Exhibit E (screenshot of SQL query from Rachel Murphy showing 49). Moreover, as of August 1, 2012, Lee & Hayes was responsible for the maintenance fees of 209 U.S. Patent matters. Exhibit F (screenshot of SQL query from Rachel Murphy showing 209). Of the matters for which Lee & Hayes is responsible for paying maintenance fees, only one other maintenance fee payment has ever been missed, resulting in a 99% success in maintenance fee payment rate as of



August 1, 2012 and a 98% success in maintenance fee payment rate for patents issued and docketed by March 16, 2007, the date the file for the '077 patent was opened. See Exhibits E and F.

In the other matter for which the maintenance fee was missed, US Patent No. 7,331,829 (the "829 Patent"), Lee & Hayes received a Notice of Patent Expiration and promptly filed a petition to accept late payment of maintenance fee, which was granted. Furthermore, it was the Notice of Patent Expiration in the '829 Patent that prompted Petitioner to do an exhaustive manual audit, during which Petitioner discovered that the maintenance fee had not been paid in the '077 Patent.

The Notice of Expiration in the '829 Patent demonstrated how a Notice of Expiration is the last line of defense against human docketing errors. However, with the '077 Patent, there was no final defense because Lee & Hayes did not receive a Notice of Expiration. In accordance with Lee & Hayes' standard mail handling procedures, mail from the USPTO received by Lee & Hayes in 2008 was opened, date stamped, and docketed for processing. Exhibit K; See also Exhibit L. Exhibit L1 shows an Excel training document which sets out the step-by-step procedure for handling mail from the USPTO. Exhibit L2 is a flow chart provided to Lee & Hayes docketing personnel for quick reference of USPTO mail handling procedures. A search of Petitioner's docketing files revealed that Petitioner did not receive a Notice of Patent Expiration in the '077 Patent. Exhibit K.

A signed statement by Dana Calhoun, Lee & Hayes' docketing manager, describing the training and oversight provided to all docketing employees, and the process for receiving and docketing USPTO mail, described above, is attached as

Exhibit K. A signed statement by Melissa Gable, the employee who docketed the '077 Patent, is attached as Exhibit M. A signed statement by Rita Martin, the docketing team member who reviewed Melissa Gable's work on the '077 Patent is attached as Exhibit N. A signed statement by Rhonda Bogart, Lee & Hayes' Client Relations Manager, describing Lee & Hayes' standard procedure for the intake of a new portfolio, is attached as Exhibit G. Petitioner submits that the foregoing shows that there was a reliable business routine for opening new matters and tracking maintenance fees in a reputable docketing system. Petitioner also submits that this routine was run by diligent and responsible employees, and that it was reasonable for the Petitioner to rely on the performance of the system and employees.

*(C) The instant patent was entered into the docketing system*

This subsection establishes that the '077 Patent was entered in Lee & Hayes' docketing system upon receipt. The rules "P-TRSFR" and "P-IN" are the only two rules that are used to open and properly docket a new matter during a transfer. As shown by the screenshot below, a matter was opened in PerfectLaw for the '077 Patent on "3/16/2007." The following screenshot shows that "P-TRSFR" rule was run by Melissa Gable (MAG) on March 16, 2007 for the '077 Patent, Lee & Hayes reference code, TL1-0095US. Exhibit G (statement of Lee & Hayes' Client Relations Manager referring to a Lee & Hayes specific reference code). This rule was used to update the filing date of the application in the system. This new appointment, with the '077 Patent's filing date of February 13, 2002, is designed to work in conjunction with the "P-IN" rule to send maintenance fee reminders.

Lee & Hayes, PLLC  
Run: 6/28/2012 3:35:43 PM

## Appointment History

[REDACTED]

MAG Archived appointment field: on 03/16/07 at 1:15:24  
MAG Updated appointment data on 03/16/07 at 1:15:23  
To: Date: 02/13/2002  
MAG New appointment on 03/16/07 at 1:15:00  
To: Date: 3/17/2007  
Trans Date: 3/18/2007  
Rule Code: P-TRSFR  
Matter: 0085US  
Client: TL1  
Text: Filing Date

*(D) Description of how Telect, Inc. conveyed its desire to pay the maintenance fees*

Lee & Hayes received an incoming transfer document from the law firm previously handling a portion of Telect Inc.'s portfolio, along with a notice that a Withdrawal of Attorney had been filed for all the corresponding files. The incoming transfer document listed the '077 Patent with an indication that the action to be taken was "Maintenance Fee (3 1/2 years)" with a base date of "06/08/2004" indicated. A redacted copy of the incoming transfer documents is appended as Exhibit O. As discussed above, Lee & Hayes opened a new matter for the '077 Patent. However, as discussed in more detail in the next subsection, the maintenance fee was not correctly docketed due to a human docketing error.

Had the '077 Patent been properly docketed, Petitioner's normal procedure for this client would have been to send a maintenance fee reminder three months prior to the maintenance fee due date. The standard maintenance fee reminder to Telect Inc. (hereinafter, "Telect") includes a statement to the effect that "in the absence of your

contrary instructions, we will pay the [maintenance] fee[] by the due date[] to avoid incurring any surcharges." Exhibit P. A redacted copy of a standard maintenance fee reminder from another Telect matter is attached as Exhibit P1. Exhibit P2 shows an example maintenance fee reminder calendar from PerfectLaw for another matter.

Nothing further occurred until Lee & Hayes received a Notice of Patent Expiration for the '829 patent mentioned above, which expired because the maintenance fee in that patent was not paid on time. As discussed further in the next subsection, Lee & Hayes began a manual audit of all of Telect's files. During this manual audit, Lee & Hayes discovered that the '077 Patent had not been properly docketed.

When the error was discovered, Lee & Hayes began a search of the firm's individual and docketing archived email accounts to determine whether Lee & Hayes had ever received an instruction from the client to allow this patent to expire. Exhibit Q. No such instruction was found. Exhibit Q.

On April 11, 2012, an email was then sent to the Vice President of Product Development at Telect, Inc. in order to confirm that Telect did in fact want the maintenance fee paid. The email includes details of the timing and circumstances of discovery of the docketing error and the subsequent steps taken to determine that the '077 Patent should have been maintained. The email was sent by Jessica West, the docketing employee that discovered the error, and is attached as Exhibit R.

Telect replied on April 11, 2012, that they intended to maintain the patent. Exhibit S. Accordingly, on April 12, 2012, Lee & Hayes filed the Original Petition to accept the unavoidably delayed payment of a maintenance fee for the '077 Patent. Exhibit B.

*(E) The failure to submit the maintenance fee on time was due to an unforeseeable human docketing error*

An error in a docketing system may result in an unavoidable delay if "reasonable care was exercised in designing and operating the system and . . . the patentee took reasonable steps to ensure that the patent was entered into the system to ensure timely payment of the maintenance fees." MPEP § 2590 (I). "If unexpectedly, or through the unforeseen fault or imperfection of [ordinary and trustworthy] agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable." *In re Mattullath*, 38 App. D.C. at 514-15. An adequate showing is made by proving that the docket clerk and/or her supervisors, in spite of errors, acted with reasonable care and diligence. See *HI/FN v. Dudas*, 2009 WL 192590 (N.D. Ca 2009).

In *HI/FN v. Dudas*, the expired patent at issue was transferred from one firm to another. *HI/FN v. Dudas*, 2009 WL 192590 (N.D. Ca 2009), 2. The docketing agent in that case, misdocketed 11 out of the 12 patents transferred, including the patent at issue in that case. *Id.* at 6. The court in *HI/FN v. Dudas* affirmed the USPTO decision that the misdocketing was not an unforeseeable event, and therefore was not unavoidable because so many files had been misdocketed. *Id.* at 4. Furthermore, the court stated that HI/FN failed to prove that the docketing department acted with due care, because the petition lacked a statement from the docketing clerk with details about the error. *HI/FN v. Dudas*, 2009 WL 192590 (N.D. Ca 2009), 6.

In contrast, this Petition for Reconsideration includes a statement from the employees responsible for docketing the '077 Patent. See Exhibits M, N, and K. Moreover, the Lee & Hayes employee who made the mistake was properly trained, but

due to the substantial number of docketing requirements that day, a docketing error was made in the Transfer. See Exhibit T, which shows a redacted list of the Telect matters sent to Lee & Hayes during the Transfer. See also Exhibits K, M, N, & O. During the week of March 15-22, 2007, Lee & Hayes opened 95 new matters. Exhibit C. The number of new matters that week was 237.5% of the 2007 average of 40 matters opened per week. Additionally, on March 16, 2007, the day the error was made, the docketing department opened 10 new files, ran 84 docketing rules, completed 44 US docketing deadlines, and received 122 emails; all of which were well above the normal workload for the department. Exhibit K. This heavy workload most likely resulted in Lee & Hayes' trained professionals making the human docketing error which resulted in the expiration of the '077 Patent.

Unlike the docketing in HIFN, in which 11 of the 12 transferred files were misdocketed, only one file here was misdocketed in the Transfer, despite the heavy workload. See Exhibits K, O, and T. In Lee & Hayes history, only two (2) out of 209 files for which Lee & Hayes is responsible for the maintenance fees have been misdocketed. Exhibit F. Petitioner's 99% success rate is in stark contrast to the 8.3% success rate in HIFN. Though the review process per Lee & Hayes practice (described in Exhibits K and N) should have caught any mistakes, it was simply missed due to human docketing error.

Petitioner's docketing system, PerfectLaw, includes an auditing functionality that allows a user to ascertain when docket items are entered into the system. Upon using the auditing function on the docket item with the description "Due: 12 Year Maintenance Fee with Surcharge" of the docket of the '077 Patent, an audit log for that docket item is

displayed. A screenshot of the audit log for the docket item described above is shown below.

Lee & Hayes, PLLC  
Run: 6/22/2012 8:44:38 AM

## Appointment History



JLW New appointment on 04/12/12 at 4:48:08  
To: Date: 8/3/2016  
Trans Date: 4/12/2012  
Activity: DLN  
Security: &DOCKET  
Rule Code: P-IN  
Matter: 0095US  
Client: TL1  
Text: Due: 12 Year Maintenance Fee with Surcharge

As shown, the appointment was added "on 04/12/12 at 4:34:08" and rule code "P-IN" was used. "P-IN" is the rule that should have been applied at the time of the opening of the matter. Had the member of the docketing team who opened the matter in PerfectLaw followed normal procedure practiced by Lee & Hayes and described in the previous section, the date for entry of the docket item would have coincided with the day that the matter was opened. Instead, the date displayed in this case is the date the client confirmed that they did not intend the referenced patent to expire after the error was discovered and the docketing team applied the "P-IN" rule in response to the client confirmation.

A docketing employee at Lee & Hayes, the member of the docketing team that found the error, wrote this statement in an email to Telect on April 11, 2012:

After the last email I sent you on March 28<sup>th</sup> when we received Notice of Patent Expiration, I decided to audit all existing Telect patents to insure that no additional errors had been made in the docketing of maintenance fees. On April 4<sup>th</sup> I found a case where the patent had expired from lapse of fees paid and did some additional research to verify if this was unintentional or intentional expiration. The case I found is Application 09/762,562, Patent

6,772,077 - Electric Arc Monitoring Systems. This case was transferred into us from Koppel on March 16, 2007. The 4<sup>th</sup> year maintenance fee was due on 8/3/2008. This was not paid. As with the previous patent, these cases were apparently not docketed properly when they were transferred in. We have no record of receiving a Notice of Patent Expiration from the USPTO. I have found the paper file from the transfer and have done a search of all email boxes to see if this lack of payment was intentional but can't find anything that would indicate that we were instructed to let the patent expire on purpose. I spoke with the Office of Petitions at the USPTO and we do have the option to Petition to revive this patent along with payment of the 4 year maintenance fee. Before we go thru this process, however, we did want to check in with you both to verify that this case was not intentionally allowed to expire.

Exhibit R.

Neither Lee & Hayes nor Telect were aware of the mistake when it was made. All Lee & Hayes employees worked diligently and with due care to complete their heavy workload during the week of March 16, 2007. However, one unforeseeable mistake resulted in the expiration of a patent, of which Petitioner respectfully requests reinstatement.

**3) Both Petitioner and Patentee treated the payment of the maintenance fee (and later the filing of a petition to reinstate) as their most important business**

The "unavoidable standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business." *In re Patent of King et al.*, 2006 WL 4914597 (Comm'r Pat.), 1-2. A reasonable and prudent person in their most important business exercises diligence in correcting the mistake, with no undue delay. *See In re application of Naoya Katoh et al.*, 2008 WL 5427613 (Comm'r Pat.), 10-11. Decisions on revival are made on a "case-by-case basis, taking all of the facts and circumstances into account." *Smith v. Mosshoff*, 671 F.2d 533, 538 (D.C. Cir 1982).

August 2, 2012

16

TL1-0095US / US Patent No. 6,772,077



Lee and Hayes' commitment to high standards, diligence, and professionalism is evidenced by the immediate action taken by all employees upon discovery of expiration of the '077 Patent. In the case of *In re application of Naoya Katoh et al.*, the petition for revival of an expired patent was denied because of, in part, the attorney's failure to treat the patent as his most important business. 2008 WL 5427813 (Comm'r Pat.), 10-11. There, the attorney received correspondence regarding the expired patent, and did not read it for 21 days. *Id.* at 11. The Commissioner for Patents determined that "a prudent and careful man, acting in relation to his most important business," would not have waited to read the correspondence "for the better part of a month." *Id.*

Lee & Hayes acted with the diligence of a prudent and careful person, acting in relation to his most important business. On April 4, 2012, Lee & Hayes' docketing team discovered that the '077 Patent had expired. Unlike the attorney in *In re application of Naoya Katoh et al.*, the docketing team and attorneys immediately began an investigation into the docketing error. All involved Lee & Hayes employees worked tirelessly to determine whether or not the expiration was intentional. See Exhibit U. Lee & Hayes submitted the first petition for revival six (6) business days after realizing that the expiration occurred due to a docketing error, and as soon as it was confirmed that the expiration was not intentional. During those six business days, Lee & Hayes employees searched for records of the '077 Patent, communicated with our client, Telect, and the USPTO, and prepared and filed the Original Petition to Accept Unavoidably Delayed Payment of Maintenance Fee in an Expired Patent. As evidenced by the timeline in section (5) of this petition, there was no undue delay from discovery to

filling the petition. All of Lee & Hayes' clients' work, including correcting this docketing error, is the firm's most important business.

Lee & Hayes prides itself on high quality work and outstanding customer service, shown by the Mission Statement and Core Values, which are attached as Exhibit V. Lee & Hayes employs 46 patent attorneys and agents, and has a full time professional docketing team of 5 employees, all of whom work according to the Mission Statement and Core Values. Furthermore, we recognize that our clients' business is the basis for our livelihood and, in that sense, literally IS our most important business. These are the reasons that we take the careful precautions outlined in Exhibits K, M, and N.

Patentee treats its intellectual property as its most important business. As evidence of this, Patentee has entrusted the preparation, prosecution, and maintenance of its patent portfolio to Petitioner, Lee & Hayes. Lee & Hayes is a reputable law firm as evidenced by numerous awards and accolades (Exhibit W) and well known clients that choose Lee & Hayes as their patent counsel (Exhibit X). Telect does not employ its own docketing system for tracking maintenance fees, and instead reasonably relies upon Lee & Hayes to maintain its docket. Exhibit U. Lee & Hayes provides Telect with a monthly status report outlining the status of all of Telect's matters handled by Lee & Hayes. A representative sample of such a Status Report is attached as Exhibit Y. Periodically, Telect requests specific information about certain patents in their portfolio, and Lee & Hayes provides the requested information.

Thus, the events described herein occurred despite the fact that both Patentee and Petitioner treated the '077 Patent as its most important business.

**4) Patentee and Petitioner were prevented from making the payment**

As described in detail above, when the matter was opened in the docketing system for the '077 Patent, the maintenance fees were not docketed. When the docketing was checked for the '077 Patent by at least two other docketing employees, the error was missed due to a human docketing error. Thus, in this instance, despite the precautions and processes in place at the time, no one was aware of the docketing error until April 4, 2012.

As also described above, Petitioner filed a Power of Attorney (POA) in the '077 Patent in August of 2007, and received a Notice of Acceptance of POA from the USPTO on November 2, 2007. The POA that was filed designated Petitioner's address as the correspondence address for the '077 Patent. A copy of the POA and statement under 37 CFR § 3.73(b) that was filed in the '077 Patent as well as the notice of acceptance is attached as Exhibit Z. Petitioner has a reliable process for receiving and processing incoming mail from the USPTO. Exhibits L and K. Petitioner followed that process. However, Petitioner never received a Notice of Patent Expiration for the '077 Patent. Exhibit K. Neither Patentee nor Petitioner was aware that the maintenance fee payment in the '077 Patent, that should have been paid August 3, 2008, had been missed until Petitioner's manual audit that was conducted in response to receipt of the Notice of Patent Expiration for the '829 Patent. The Patentee reasonably relied on Lee & Hayes to provide notice with regard to the maintenance fee due date, however, due to the docketing error, the responsible attorney was not alerted to the pending due date.

Lee & Hayes relies on proper docketing and PerfectLaw to alert the responsible attorney when maintenance fees are due. Due to the docketing error, the responsible

attorney was prevented from making the maintenance fee payment on time. As mentioned in sections 2(A) and 2(B), PerfectLaw is a reliable docketing system. Lee & Hayes has used this docketing system since 2004, and reasonably relies on both the system and the docketing team running required rules. The docketing team at Lee & Hayes has an impeccable record, properly inputting 99% of all data related to maintenance fees. See Exhibit F. However, in this case, the "P-IN" rule was not run, therefore resulting in no alert of the pending '077 Patent maintenance fee due date. Due to this docketing error, the Patentee and Petitioner were prevented from making the maintenance fee payment.

**5) The entire delay in making the payment and submitting a grantable petition was unavoidable**

The unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. 133. MPEP § 2590 (citing *Ray v. Lehman*, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) (quoting *In re Patent No. 4,409,763*, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988), *aff'd sub nom*). A reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. *Ray*, 55 F.3d at 609. An adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR § 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. *Id.* Diligence is an essential element in the demonstration of

avoidable delay. *R.R. Donnelley & Sons v. Dickinson*, 123 F.Supp.2d 456, 460 (N.D. Ill. 2000).

The undersigned attorney responsible for the Telect patent portfolio at Lee & Hayes has performed prudently and diligently and exercised due care to ensure timely payment of maintenance fees, as well as attending to the most important business of Lee & Hayes, the work our clients entrust to us. Exhibit U. Once Petitioner discovered that the maintenance fee had not been paid for the '077 Patent, Petitioner worked diligently to prepare and file a grantable petition. The following is a timeline of events regarding the '077 Patent, made by the undersigned attorney that manages the Telect portfolio. Any events in the timeline of events that are not based on an attached Exhibit are based on the undersigned's own knowledge, or are based on information and belief from consultation with the docketing personnel (Jessica West, Rita Martin, and Dana Calhoun) having personal knowledge of the facts and circumstances of the events:

- In 2007 Lee & Hayes' client, Telect, Inc., requested transfer of a portfolio of issued patents and pending applications to our firm, Lee & Hayes, from another law firm (the "Transfer"). This Transfer included the '077 Patent, among others. See Exhibit O.
- Our firm entered the transferred issued patents and pending applications into our docketing system according to Lee & Hayes standard procedures. The '077 Patent was opened in our docketing system on March 16, 2007. See Section 2(C).

- Lee & Hayes then obtained and filed Power of Attorney forms in each of the issued patents and pending patent applications included in the Transfer. The Power of Attorney was filed in the '077 Patent on August 2, 2007, and accepted by the USPTO on November 2, 2007. See Exhibit Z.
- On Monday, March 26, 2012, Lee & Hayes received a Notice of Patent Expiration, dated March 19, 2012, for the '829 Patent. Exhibit AA; Exhibit Q.
- On the same day we filed a Petition to Accept Unintentionally Delayed Payment of Maintenance Fee and paid the petition fee and maintenance fee for the '829 Patent. Exhibits U and AB.
- On Wednesday, March 28, 2012, Lee & Hayes notified the client of the Notice of Patent Expiration and the subsequent Petition to Accept Unintentionally Delayed Payment of Maintenance Fee for the '829 Patent. Exhibits U and AC.
- On Thursday, March 29, 2012, docketing employee Jessica West began to manually audit all of the Telect files to make sure there were no additional docketing errors. Exhibits Q and U.
- On the Wednesday, April 4, 2012, Jessica West concluded the manual audit. Exhibits Q and U.
- The audit identified the '077 Patent as being issued, however it did not show any maintenance fees docketed. Exhibits Q and U.
- A search of the USPTO maintenance fee records indicated that the instant patent had expired for failure to pay maintenance fees, but Lee & Hayes' docketing system did not include any indication of why the '077 patent had expired. Exhibit Q.

- Between April 4-6, 2012, a search was conducted of both firm and individual archived email accounts to determine whether we had received an instruction from the client to allow the '077 patent to expire. No such instruction was found. Exhibits Q and U.
- On Friday, April 6, 2012, the docketing team conducted a search of Lee & Hayes' document management system, as well our docketing email system, to determine if a Notice of Patent Expiration had been received from the USPTO. The search revealed no record of ever having received a Notice of Patent Expiration for the '077 Patent. Exhibits K, Q, and U.
- On Monday, April 9, 2012, a Lee & Hayes representative called the Office of Petitions at the USPTO and was told that we would need to file a Petition to Accept Unavoidably Delayed Payment of Maintenance Fee in an Expired Patent. Exhibit U.
- That same day, David Divine (the undersigned attorney), Rhonda Bogart (the Client Relations Manager), and Jessica West (the docketing employee who conducted the manual audit) met to discuss the '077 patent and filing the Petition to Accept Unavoidably Delayed Payment of Maintenance Fee in an Expired Patent. Exhibits Q and U.
- Between April 9-10, 2012, the Lee & Hayes docketing team verified the results of the April 4-6 search. Exhibits Q and U.
- On Wednesday, April 11, 2012, Lee & Hayes notified Telect that the instant patent had expired for failure to pay maintenance fees, and requested that they confirm that they did not intend for this patent to expire. Exhibits R and U.

- On Wednesday, April 11, 2012, the client confirmed that they did not intend for the instant patent to expire. Exhibit S.
- On Thursday, April 12, 2012, Lee & Hayes completed and filed the Original Petition to Accept Unavoidably Delayed Payment of Maintenance Fee. Exhibit B.
- On Tuesday, June 5, 2012, Petitioner received the Decision on the Petition under 37 CFR 1.378(b), which set a two-month period during which to request reconsideration. Exhibit A.
- Petitioner used this two-month response period from June 5, 2012 until the filing of the Instant Petition for Reconsideration and accompanying Exhibits to collect additional information to supplement the Original Petition, to prepare an exhaustive showing that Patentee and Petitioner meet the requirements for a grantable petition to accept an unavoidably delayed payment of maintenance fee, and to have the Petition for Reconsideration reviewed by three different attorneys. Exhibit U.



**Conclusion**

Petitioner respectfully submits that the instant Petition for Reconsideration and the referenced Exhibits remedy the deficiencies alleged in the Decision, and show unavoidable delay in paying the maintenance fee in the '077 Patent. This Petition for Reconsideration and the referenced Exhibits satisfy all of the items required for a grantable petition under 37 CFR § 1.378(b):

(b) Any petition to accept an unavoidably delayed payment of a maintenance fee filed under paragraph (a) of this section must include:

- (1) the required maintenance fee set forth in § 1.20(e)
- (g):
  - (2) the surcharge set forth in § 1.20(l)(1); and
  - (3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

Furthermore, this Petition for Reconsideration addresses each of the specific deficiencies noted in the Decision by establishing that:

- 1) petitioner knew of the need to make the maintenance fee payment, 2) implemented a reliable docketing system to track the relevant dates 3) treated the payment of the maintenance fee (and later the filing of a petition to reinstate) as his most important business 4) was prevented from making the payment and 5) . . . the entire delay in making the payment and submitting a grantable petition was unavoidable.

*Decision*, page 3, first paragraph in the section entitled "Application of the Unavoidable Standard."

Finally, this petition also meets the criteria set out in MPEP 711.03(c) for the showing of unavoidable delay resulting from an error on the part of an employee in the performance of a clerical function:

- (A) the error was the cause of the delay;
- (B) there was in place a business routine for performing the clerical function which could reasonably be relied upon to avoid errors in its performance; and
- (C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

Therefore, Petitioner respectfully requests that the Office grant the Petition for Reconsideration, and reinstate the '077 Patent.

Respectfully Submitted,

Lee & Hayes, PLLC

By: 

Dated: August 2, 2012

David A. Divine  
(daved@leehayes.com; 509-944-4733)  
Registration No. 51275

Lance Reich  
(lance@leehayes.com; 509-944-6012)  
Registration No. 42097

Bea Koempel-Thomas  
(bea@leehayes.com; 509-944-4759)  
Registration No. 58213

August 2, 2012

26

TL1-0095US / US Patent No. 6,772,077

AUG 02 2012

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

**Exhibits****Exhibit A**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

LEE & HAYES, PLLC  
601 W. RIVERSIDE AVENUE  
SUITE 1400  
SPOKANE WA 99201

**MAILED**  
**JUN 05 2012**  
**OFFICE OF PETITIONS**

In re Patent No. 6,772,077 :  
Issue Date: August 3, 2004 :  
Application No. 09/762,562 :  
Filed: February 13, 2002 :  
Attorney Docket No. TL1-0095US :

ON PETITION

This is a decision on the petition under 37 CFR 1.378(b), filed April 12, 2012, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.<sup>1</sup>

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, the Director will undertake no further reconsideration or review of the matter. This includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts, as they know them. If a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

The patent issued August 3, 2004. The 3.5 year maintenance fee could have been paid from August 3, 2007 to February 2, 2008, or with a surcharge during the period from February 3, 2008 to August 3, 2008. Petitioner did not do so. Accordingly, the patent expired August 4, 2008.

A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to insure that the maintenance fee would be paid timely, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1). This petition lacks item (1) above.

<sup>1</sup> This is not a final agency decision.

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

Patent 6,772,077

Page 2

A petition under 37 CFR 1.378(b) for the acceptance of an unavoidably delayed payment of maintenance fee is considered under the same standard as that for reviving an application unavoidably abandoned under 37 CFR 1.137(a) because 35 U.S.C. § 41(c)(1) uses the identical language, i.e., "unavoidable" delay.<sup>2</sup> Decisions reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.<sup>3</sup> In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."<sup>4</sup> Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay.<sup>5</sup>

The general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.<sup>6</sup> However, "the question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case by case basis, taking all of the facts and circumstances into account."<sup>7</sup> Nonawareness of the content of, or misunderstanding of PTO statutes, PTO rules, the MPEP or Official Gazette notices, do not constitute unavoidable delay.<sup>8</sup> The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof.

<sup>2</sup> Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) (quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)).

<sup>3</sup> Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful man in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

<sup>4</sup> Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute unavoidable delay); Vincent v. Mossinghoff, 1985 U.S. Dist. Lexis 23119, 13 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (Plaintiffs through their counsel's actions or their own must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications).

<sup>5</sup> Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

<sup>6</sup> The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard 35 U.S.C. 41(c)(1) states; "The Commissioner may accept the payment of any maintenance fee...at any time...if the delay is shown to the satisfaction of the Commissioner to have been unavoidable (emphasis added).

<sup>7</sup> Smith v. Mossinghoff, 671 F.2d at 533.

<sup>8</sup> Id. at 538.

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

Patent 6,772,077

Page 3

The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business.<sup>9</sup>

**PETITIONER'S ARGUMENT**

- In 2007, assignee Telect, Inc. requested the transfer of a portfolio of issued patents and pending applications to the firm Lee & Hayes.
- Lee and Hayes contend the transferred issued patents and pending applications were added to the firm's docket system according to normal procedure.
- A power of attorney was entered on November 2, 2007.
- On March 26, 2012, the firm received a Notice of Patent Expiration for another issued patent that was included in the transfer. Petitioner contends that patent expired due to docketing error.
- On March 29, 2012, a manual audit was conducted to make sure there were no additional docketing errors.
- The audit identified the instant patent as being issued but did not have any maintenance fees docketed. The firm's docketing system did not include an indication why the patent expired.
- It was discovered that Telect, Inc. did not intend the expiration of the instant patent.
- A petition to reinstate the patent was filed April 12, 2012.

**APPLICATION OF THE UNAVOIDABLE STANDARD**

Petitioner's arguments have been considered but are not persuasive. In general a grantable petition under 37 CFR 1.378.(b) must show 1) petitioner knew of the need to make the maintenance fee payment, 2) implemented a reliable docketing system to track the relevant dates 3) treated the payment of the maintenance fee (and later the filing of a petition to reinstate) as his most important business 4) was prevented from making the payment and 5) must show the entire delay in making the payment and submitting a grantable petition was unavoidable.

Although petitioner has established that they knew of the need to pay the maintenance fees, petitioner has failed to establish that a reliable docketing system was implemented to track the maintenance fee due dates. Petitioner has failed to provide any information regarding the docketing system used at Lee and Hayes. Nor has petitioner provided evidence that the instant patent was ever entered into the docketing system. Petitioner has also failed to state how Telect, Inc. conveyed the desire to pay maintenance fees and what exactly was the normal procedure for

---

<sup>9</sup> In re Mattullath, 38 App. D.C. 497, 514-15 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

Patent 6,772,077

Page 4

entering a patent into the docketing system. As such the Office is unable to make a determination that the docketing system was reliable.

Petitioner has also failed to establish that the failure to submit the maintenance fee was due to docket/clerical error. Petitioner has provided no evidence in support of the contention that docket error resulted in the expiration of the above-identified patent.

As set forth in MPEP 711.03(c), a delay resulting from an error on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown:

- A) the error was the cause of the delay;*
- B) there was in place a business routine for performing the clerical function which could reasonably be relied upon to avoid errors in its performance; and*
- C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.*

The record is not clear that the error was caused by a docket error. Assuming the error was caused by docket error, petitioner has failed establish that there was a business routine for performing the clerical function which could reasonably be relied upon to avoid errors. Nor has petitioner provided evidence that the employee was sufficiently trained or experienced with the docketing system used at Lee & Hayes.

An adequate showing of unavoidable delay due to docket/clerical error may include but not limited to:

- 1) statements by all parties with direct knowledge of the circumstances surrounding the delay;*
- 2) a thorough explanation of the docketing system in use;*
- 3) identification of the types of records kept;*
- 4) identification of the persons responsible for the maintenance of the system, copies of mail ledger, docket sheets, file wrappers;*
- 5) information regarding the training provided to the clerk(s) responsible for the docketing error, the degree of supervision of their work; and*
- 6) an indication why the system failed.*

It is solely the responsibility of the patentee to ensure that the maintenance fee is paid timely to prevent expiration of the patent. The Office looks to the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant/patentee and their successors, and the applicant/patentee and their successors are bound by the consequences of those actions or

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

Patent 6,772,077

Page 5

inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962). Failure to monitor the status of a patent does not reflect the due care and diligence employed by a prudent and careful person with respect to their most important business and as such cannot demonstrate that the delay was unavoidable delay.

Accordingly, the facts presented do not allow for a finding of unavoidable delay.

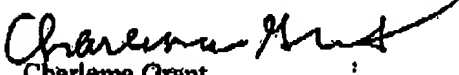
Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION  
Commissioner for Patents  
Post Office Box 1450  
Alexandria, VA 22313-1450

By Hand: U. S. Patent and Trademark Office  
Customer Service Window, Mail Stop Petitions  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

  
Charlema Grant  
Attorney Advisor  
Office of Petitions

August 2, 2012

31

TL1-0095US / US Patent No. 6,772,077

Exhibits Accompanying Petition under 37 CFR § 1.378(a) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

RECEIVED  
CENTRAL FAX CENTER

**Exhibit B**

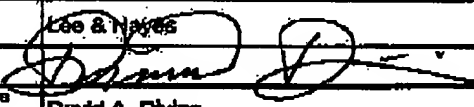
Doc Code: TRAN.LET

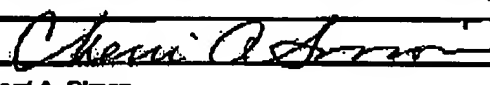
Document Description: Transmittal Letter

AUG 02 2012

Approved for use through 07/31/2012: OMB 0861-0031  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE  
Under the Privacy Protection Act of 1988, no person is required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL FORM</b> <small>(To be used for all correspondence after initial filing)</small>	Application Number	06762,562 US Patent No. 6,772,077
	Filing Date	2/13/2002
	First Named Inventor	Michael T. Parker
	Art Unit	2857
	Examiner Name	
	Attorney Docket Number	TL1 - 0088US
Total Number of Pages in This Submission		9

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/Declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Reply to Missing Parts/Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<b>Remarks</b> 1. Petition to Accept Unavoidably Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.37(b)) (including attached statement) 2. Maintenance Fee Transmittal Form 3. Credit Card payment Form	
<b>SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT</b>		
Firm Name	Lee & Hayes	
Signature		
Printed name	David A. Divine	
Date	April 12, 2012	Reg. No. 51275

CERTIFICATE OF TRANSMISSION/MAILING		
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1480, Alexandria, VA 22313-1480 on the date shown below.		
Signature		
Typed or printed name	Cherri A. Simon	Date 4/12/12

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to be (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1480, Alexandria, VA 22313-1480. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1480, Alexandria, VA 22313-1480.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

August 2, 2012

32

TL1-0095US / US Patent No. 6,772,077



RECEIVED  
CENTRAL FAX CENTER

039/131

Exhibits Accompanying Petition under 37 CFR § 1.378(a) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

PTO/BB/65 (03-09)  
Approved for use through 03/31/2012. CMB 0851-0018  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1996, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF  
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))**

Docket Number (Optional)

Mail to: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450  
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Patents Information at  
(571) 272-3282.

Patent Number: 6,772,077Application Number: 09/762,582Issue Date: 08/03/2004Filing Date: 02/13/2002

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.388(c) and (d).

Also complete the following information, if applicable:

The above-identified patent:

☐ is a reissue of original Patent No. \_\_\_\_\_ original issue date \_\_\_\_\_;  
original application number \_\_\_\_\_,  
original filing date \_\_\_\_\_.

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application  
\_\_\_\_\_ filed on \_\_\_\_\_.

**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is

(1) being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 OR

(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

4/12/12  
Date

Cherri A. Simon  
Signature

Cherri A. Simon  
Typed or printed name of person signing Certificate

[Page 1 of 4]

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

August 2, 2012

33

TL1-0095US / US Patent No. 6,772,077

AUG 02 2012

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

PTO/SB/88 (09-08)

Approved for use through 03/31/2012. OMB 0831-0018  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## 1. SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27

## 2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

## 3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity				Small Entity			
Amount	Fee	(Code)		Amount	Fee	(Code)	
<input checked="" type="checkbox"/> \$ 1130.00	3 ½ yr fee	(1551)		<input type="checkbox"/> \$ _____	3 ½ yr fee	(2551)	
<input type="checkbox"/> \$ _____	7 ½ yr fee	(1552)		<input type="checkbox"/> \$ _____	7 ½ yr fee	(2552)	
<input type="checkbox"/> \$ _____	11 ½ yr fee	(1553)		<input type="checkbox"/> \$ _____	11 ½ yr fee	(2553)	

MAINTENANCE FEE BEING SUBMITTED \$ \_\_\_\_\_

## 4. SURCHARGE

The surcharge required by 37 CFR 1.20(f)(1) of \$ 700.00 (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.SURCHARGE FEE BEING SUBMITTED \$ 700.00

## 5. MANNER OF PAYMENT

- ☐ Enclosed is a check for the sum of \$ \_\_\_\_\_
- ☐ Please charge Deposit Account No. \_\_\_\_\_ the sum of \$ \_\_\_\_\_.
- ☒ Payment by credit card. Form PTO-2038 is attached.

## 6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

- ☒ The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. 12-0769.

[Page 2 of 4]

August 2, 2012

34

TL1-0095US / US Patent No. 6,772,077

AUG 02 2012

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

PTO/SB/83 (03-09)

Approved for use through 03/31/2012. OMB 0551-0018  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## 7. OVERPAYMENT

As to any overpayment made, please

☒ Credit to Deposit Account No. 12-0769

OR

☐ Send refund check

## WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

## 8. SHOWING

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

9. PETITIONER(S) REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE  
PATENT REINSTATED.
  
 \_\_\_\_\_  
 Signature(s) of Petitioner(s)

April 12, 2012

Date

David A. Divina

Typed or printed name(s)

51275

Registration Number, if applicable

601 W Riverside, Suite 1400

Address

509-844-4733

Telephone Number

Spokane, WA 99201

Address

## ENCLOSURES:

- ☒ Maintenance Fee Payment  
☒ Statement why maintenance fee was not paid timely  
☒ Surcharge under 37 CFR 1.20(i)(1) (fee for filing the maintenance fee petition)  
☐ Other: \_\_\_\_\_

(Page 3 of 4)

August 2, 2012

35

TL1-0095US / US Patent No. 6,772,077

AUG 02 2012

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

PTO/SB/93 (03-09)  
Approved for use through 03/31/2012. OMB 0651-0010  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE  
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

  
Signature

David A. Dmine

Type or printed name

April 12, 2012

Date

51275

Registration Number, if applicable

STATEMENT

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.)

See attached Statement

(Please attach additional sheets if additional space is needed)

Page 4 of 4

August 2, 2012

38

TL1-0095US / US Patent No. 6,772,077

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

**STATEMENT**

(attachment to PTO/SB/65)

The following is an account of the activities that occurred related to this matter:

- In 2007 our client Telect, Inc. requested transfer of a portfolio of issued patents and pending applications to our firm, Lee & Hayes, from another law firm ("the Transfer"). This Transfer included the instant patent, U.S. Patent No. 6,772,077, among others.
- Our firm entered the transferred issued patents and patent pending applications into our docketing system according to our normal practices.
- We then obtained and filed Power of Attorney forms in each of these issued patents and pending patent applications. The Power of Attorney was filed in the instant patent on August 2, 2007 and accepted by the USPTO on November 2, 2007.
- On March 28, 2012, our firm received a Notice of Patent Expiration, dated March 19, 2012, for another issued patent that was included in the Transfer.
- On the same day we filed a Petition to Accept Unintentionally Delayed Payment of Maintenance Fee, and paid the petition fee and maintenance fee for the other matter.
- On March 28, 2012, our firm notified the client of the Notice of Patent Expiration and the subsequent Petition to Accept Unintentionally Delayed Payment of Maintenance Fee for the other matter.
- The expiration of the other patent was determined to be due to a docketing error.
- On March 29, 2012, we began to manually audit all of the files for our client to make sure there were no additional docketing errors.
- On the April 4, 2012, we concluded the manual audit.
- The audit identified the instant patent as being issued, but did not have any maintenance fees docketed.
- A search of the USPTO maintenance fee records indicated that the instant patent had expired for failure to pay maintenance fees, but our docketing system did not include any indication why the patent had expired.
- Between April 4-8, 2012, a search was conducted of both firm and individual archived email accounts to determine whether we had received an instruction from the client to allow this patent to expire. No such instruction was found.
- On April 6, 2012, a search was conducted of our document management system as well as our docketing email system to determine if a Notice of Patent Expiration had been received from the USPTO. The search revealed no record of ever having received a Notice of Patent Expiration for the instant patent.
- On April 9, 2012, we called the Office of Petitions at the USPTO and were told that we would need to file a Petition to Accept Unavoidably Delayed Payment of Maintenance Fee in an Expired Patent.
- On April 9, 2012, we met to discuss filing the Petition to Accept Unavoidably Delayed Payment of Maintenance Fee in an Expired Patent, and adjusting our new file intake processes to prevent similar oversights in the future.
- Between April 9-10, 2012, we double checked the results of our searches on April 4-6.

US Patent: 6,772,077

US Patent Application: 09/762,562

August 2, 2012

37

TL1-0095US / US Patent No. 6,772,077

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

- On April 11, 2012, we notified our client that the instant patent had expired for failure to pay maintenance fees, and requested that they confirm that they did not intend for this patent to expire.
- On April 12, 2012, the client confirmed that they did **NOT** intend of the instant patent to expire.
- We immediately prepared and filed the accompanying Petition to Accept Unavoidably Delayed Payment of Maintenance Fee for the instant patent.

**We respectfully request at the Office grant our petition and reinstate the referenced patent.**

---

August 2, 2012

38

TL1-0095US / US Patent No. 6,772,077

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

**Exhibit C**

I, Rachel Murphy, declare as follows:

1. I have been an employee at Lee & Hayes since October 2003.
2. At Lee & Hayes, I worked primarily in the docketing department until January 2006. Thereafter my responsibilities transitioned to include database management and reporting in addition to performing docketing. In January 2007, I transitioned to a position as Database Administrator. My responsibilities include database management and reporting, as well as serving as a liaison between PerfectLaw and Lee & Hayes.
3. I have been using PerfectLaw since 2004, when Lee & Hayes purchased the software licenses. Since 2004, Lee & Hayes has employed a person to manage the database, and to liaise with PerfectLaw.
4. As Database Administrator, I routinely run SQL Queries to analyze data for Lee & Hayes and the firm's clients.
5. I have run queries on the docketing matters in 2007. On average, in 2007, 40 new matters were opened per week. During the week of March 15-22, 2007, 95 new matters were opened.
6. I have produced screenshots of the SQL queries run that show the number of U.S. patent matters that are issued and have a pending docket item regarding maintenance fees. I have run queries to show the number of U.S. patent matters that are issued and have a pending docket item regarding maintenance fees today and historically. The historical queries pull up applications that issued on or before the respective date and were opened in Lee & Hayes' database on or before that same date and had pending maintenance fees on the docket that have since been completed.

All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued therefrom.

Full name: Rachel Murphy

Executed on:

8/2/2012

Signature:



Residence:

Address: Spokane, WA  
601 W Riverside Ave.  
Spokane, WA  
99201

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

**Exhibit D**



**PerfectLaw® Software - the All-in-One® solution for legal case management and time, billing, and accounting developed by Executive Data Systems, Inc.**

A leader in the law firm and legal department automation marketplace, PerfectLaw® combines matter, contact, case and document management in the Front Office with full-featured Back Office timekeeping, billing and accounting to create the only true All-In-One® Software solution in the legal automation industry. It is the only fully integrated suite that doesn't require integration with other products for timekeeper calendaring and case management.

With over 30 years experience in the legal software industry and more than 500 clients across the US and the Caribbean, PerfectLaw® leads the industry in innovative technology, streamlined installations, and responsive, quality support. PerfectLaw® continuously advances its use of technology to both meet your desires for new features and the need to streamline everyday business processes.

**About Us**

PerfectLaw® is developed by Executive Data Systems, Inc. (EDSI). Incorporated in 1979, EDSI is a privately held, financially strong small business based in Miami, Florida holding the highest Dun & Bradstreet rating for several years. Ownership is shared among three senior partners and three minor partners. Our staff of over 25 employees, some employed at PerfectLaw® for several decades, offer a mix of specializations specific to the legal industry. Our sole focus as a company for over 30 years has been supplying legal automation systems to law firms and legal departments. Our clients rely on our PerfectLaw® Software and legal systems integration expertise for their firm's front and/or back office operations. Our vision is to continue expanding our offerings to the legal industry by further developing our product for various specialized practice areas.



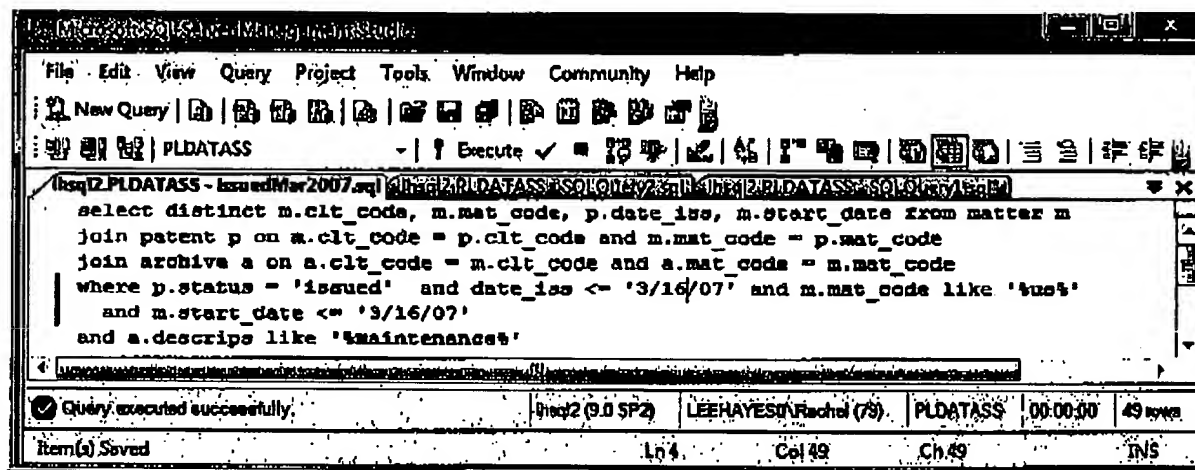
**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**PerfectLaw® has led the legal industry for over 25 years in innovative technology, streamlined installations, and responsive, quality support. PerfectLaw® is a complete, All-in-One®, fully integrated suite of products designed specifically for law firms and legal departments. The software provides attorneys and staff with the needed tools to streamline most law office functions from billing and accounting to case and document management. Since PerfectLaw utilizes an industry standard Microsoft SQL database, you can be sure that our software is based on technology that is industry recognized, awarded, and trusted.**

**Our clients return to us NOT ONLY because we offer the best product with the latest technology, but the best value and service available. We welcome you to contact our clients or other sources for feedback on our software and others before making your decision.**

---

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

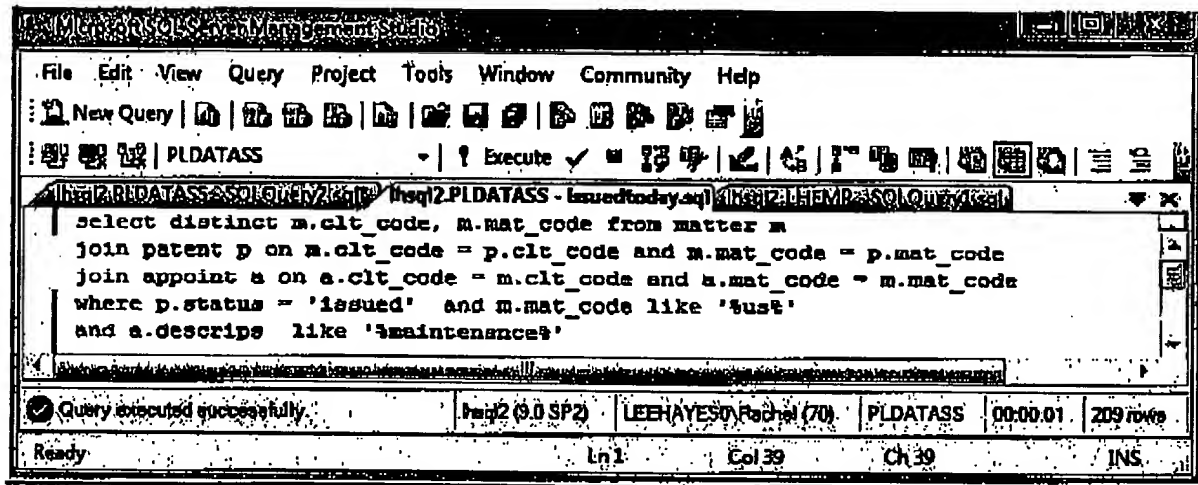
**Exhibit E**

August 2, 2012

42

TL1-0095US / US Patent No. 6,772,077

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Exhibit F**

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

**Exhibit G**

I, Rhonda Bogart, declare as follows:

1. I have been an employee at Lee & Hayes since 2002.
2. On March 16, 2007, when the patent at issue was entered into PerfectLaw at Lee & Hayes, I worked as the Client Relations Manager. Among the tasks I was responsible for as Client Relations Manager, was overseeing new client intake and conflicts checking, as well as file assignments and distribution of files to attorneys throughout the firm.
3. Lee & Hayes' standard procedure for accepting a new client required the Client Relations Manager to verify that the patents were all entered into PerfectLaw, that the file was assigned to the proper attorney, and that there were no conflicts with any existing clients or attorneys in the firm.
4. When Lee & Hayes accepted the Telect portfolio, I ensured that each patent was entered into PerfectLaw, and ensured the assignment of a Lee & Hayes specific reference code. I then verified that one of our senior attorneys, Dave Divine, was assigned to the file. After performing an initial review of the subject matter for conflicts checking, I signed off on the file, and sent it to general services for distribution.
5. To the best of my recollection, all of Lee & Hayes' standard procedures for inputting files were completed with respect to the patent at issue.

All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued therefrom.

Full name: Rhonda Bogart

Executed on

8/2/2012

Signature:

*Rhonda Bogart*

Residence:

Spokane, WA

Address:

601 W. Riverside, Ste. 1400

Spokane, WA

99201

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Exhibit H****Exhibit H1**

Set Code	PATUS						
Rule Code	P4M		Active				
Description	ISSUE NOTIFICATION - Paying large entity fees.						
Based On Rule	PUS00014		ISSUE NOTIFICATION				
Patent Set			Store Rule Default as Quilam				
Patent Rule			Set Status to				

Seq No.	Event ID	Interval	Relative to	Rel Event ID	Activity	Atty	Description
1	PD						Patent Issue Date
6		21D	1				Received Original Patent?
8		36M	1			3A 29	Reminder letter re: 3 1/2 year fee due
9	F38	42M	1		DLN	3A 29	Due: 3 1/2 year maintenance fee w/o surcharge
10	FDUE	48M	1		DLN	3A 29	Due: 4 Year Maintenance Fee with Surcharge
12		60M	1			3A 29	Reminder letter re: 7 1/2 year Fee Due
13	F75	90M	1		DLN	3A 29	Due: 7 1/2 year maintenance fee w/o surcharge
14	FDUE	96M	1		DLN	3A 29	Due: 8 Year Maintenance Fee with Surcharge
16		135M	1			3A 29	Reminder letter re: 11 1/2 year Fee Due
17	F115	138M	1		DLN	3A 29	Due: 11 1/2 year maintenance fee w/o surcharge
19	FDUE	144M	1		DLN	3A 29	Due: 12 Year Maintenance Fee with Surcharge
20	RIBBON	30D	1				Receive Ribbon Copy from PTO
21	CLOSE	6M	19			RPN	Close case in AIR

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Exhibit H2**

Client	LA2	Leo Hayes - Test Cases
Matter	0004US	Leaving LA2-0004US
Set Code	PATUS	Patent U.S.
Rule Code	P4N	ISSUE NOTIFICATION - Paying large entity fees.
Auto Assigned		
Base Date	06/01/2012	

☒ OK  
☒ Show Rule Detail as Outline

Seq No.	Event ID	Interval	Relative to	Rel Event ID	Activity	Date	Atty	Hst	Slp	SData	Description
1	ID					06/01/12 Fri		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Patent Issue Date
8		39M	1			09/01/15 Tue	RPM BA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Reminder letter re: 3 1/2 year fee due
9	F35	42M	1		DLN	12/01/15 Tue	RPM BA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Due: 3 1/2 year maintenance fee w/o surch
10	FDUE	48M	1		DLN	06/01/16 Wed	RPM BA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Due: 4 Year Maintenance Fee with Surchar
12		67M	1			09/01/19 Sun	RPM BA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Reminder letter re: 7 1/2 year Fee Due
13	F75	90M	1		DLN	12/01/19 Sun	RPM BA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Due: 7 1/2 year maintenance fee w/o surch
14	FDUE	96M	1		DLN	06/01/20 Mon	RPM BA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Due: 8 Year Maintenance Fee with Surchar
16		135M	1			09/01/23 Fri	RPM BA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Reminder letter re: 11 1/2 year Fee Due
17	F115	130M	1		DLN	12/01/23 Fri	RPM BA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Due: 11 1/2 year maintenance fee w/o surc
19	FDUE	144M	1		DLN	06/01/24 Sat	RPM BA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Due: 12 Year Maintenance Fee with Surchar
20	RIBBON	30D	1			07/01/12 Sun		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Receive Ribbon Copy from PTO

**Exhibit H3**

Day	Scheduled	Altorneys	Description	Rule
Sun	06/01/2012	CAS DAD	Reminder letter re: 3 1/2 year fee due	P4N
Mon	11/24/2014	CAS DAD	Due: 3 1/2 year maintenance fee w/o surcharge	P4N
Sun	05/24/2016	CAS DAD	Due: 4 Year Maintenance Fee with Surcharge	P4N
Fri	08/24/2018	CAS DAD	Reminder letter re: 7 1/2 year Fee Due	P4N
Sat	11/24/2018	CAS DAD	Due: 7 1/2 year maintenance fee w/o surcharge	P4N
Fri	05/24/2019	CAS DAD	Due: 8 Year Maintenance Fee with Surcharge	P4N
Wed	08/24/2022	CAS DAD	Reminder letter re: 11 1/2 year Fee Due	P4N
Thu	11/24/2022	CAS DAD	Due: 11 1/2 year maintenance fee w/o surcharge	P4N
Wed	05/24/2023	CAS DAD	Due: 12 Year Maintenance Fee with Surcharge	P4N

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Exhibit H4**

Appointment Help

Basic Scheduling Reminders and Other Notes

Meet Atty:  Invt: ☐

Activity:  Deadline:

Description:

Date:  From:  To:

Location:

Client:  Tefect:

Matter:  Interlocking Vertical Refs:

Task Code:

**Exhibit H5**

Appointment Help

Basic Scheduling Reminders and Other Notes

Reminders:

Priority:

Private:

Security:

Notice Atty:

Merge Form:

Event ID:

Related parties:

(Filter on Matter)

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Exhibit I**




---

---

---

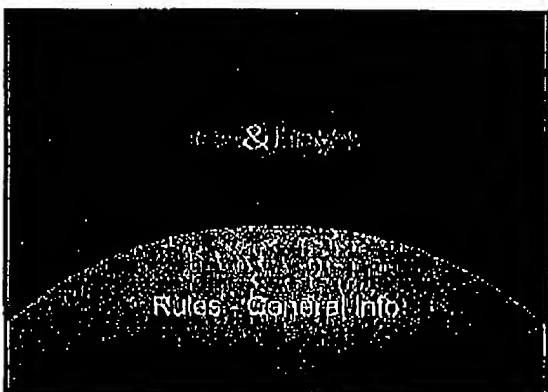
---

---

---

---

---




---

---

---

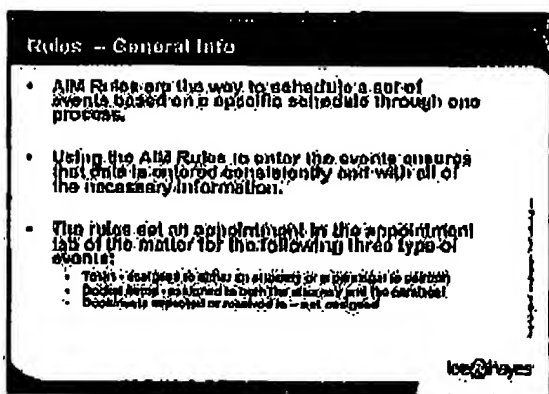
---

---

---

---

---




---

---

---

---

---

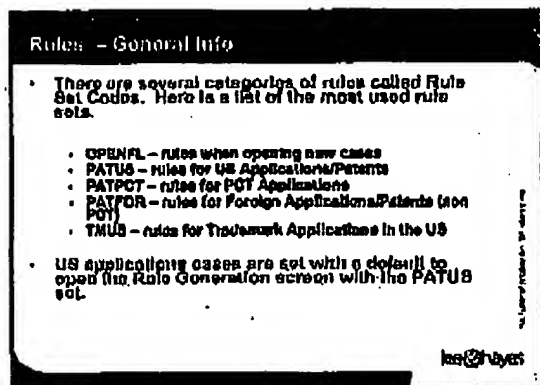
---

---

---



# Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to Accept Unavoidably Delayed Payment of Maintenance Fee




---

---

---

---

---

---

---

---




---

---

---

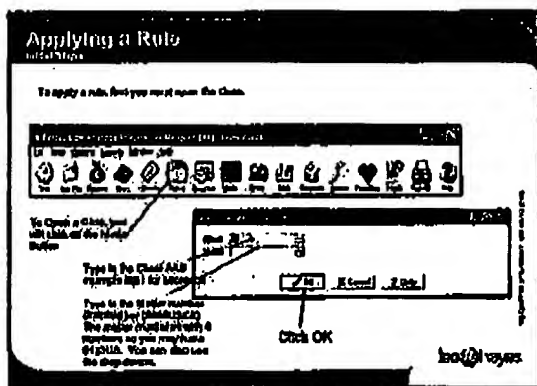
---

---

---

---

---




---

---

---

---

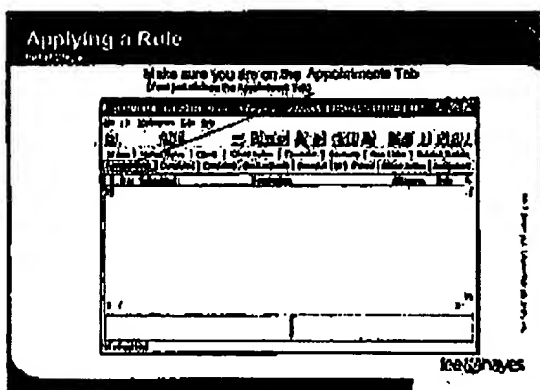
---

---

---

---

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**




---

---

---

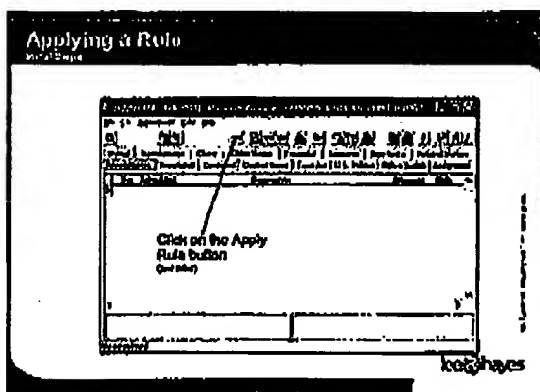
---

---

---

---

---




---

---

---

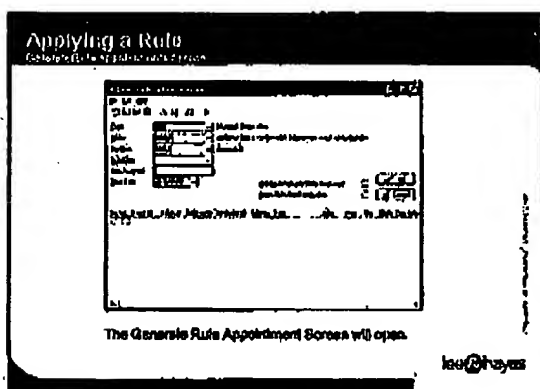
---

---

---

---

---




---

---

---

---

---

---

---

---

August 2, 2012

50

TL1-0095US / US Patent No. 6,772,077

# Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to Accept Unavoidably Delayed Payment of Maintenance Fee

**Applying a Rule**  
Information for the Petitioner

**Step 1: Check & Enter**  
This is the first step in the process. You will enter the rule number and the date of the rule.

**Step 2: Set Code**  
In the Rule Set Code to show the list of available rules.

**Step 3: Rule Code**  
Click the ... button to show the rule code to enter in the rule.

**Step 4: Base Date**  
Click the ... button to show the base date to enter in the rule.

**Step 5**  
After you enter the Base Date hit the Tab key to pull in the now events according to your base date.

lee@hayes

---

---

---

---

---

---

---

---

---

---

**Applying a Rule**  
Information for the Petitioner

**Data**  
Data that is used in the rule is entered in the Data field.

**Atty**  
The attorney who is entered in the Atty field is the attorney who is entered in the Atty field.

**Description**  
Description of the rule.

lee@hayes

---

---

---

---

---

---

---

---

---

---

**Applying a Rule**  
Information for the Petitioner

**Rule**  
This is the rule that is entered in the Rule field.

**Step**  
When you enter the Step field, the rule will be entered in the Step field.

**Code**  
When you enter the Code field, the rule will be entered in the Code field.

lee@hayes

---

---

---

---

---

---

---

---

---

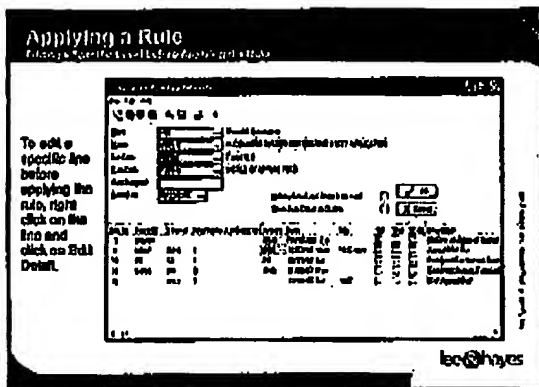
---

August 2, 2012

51

TL1-0095US / US Patent No. 6,772,077

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**




---

---

---

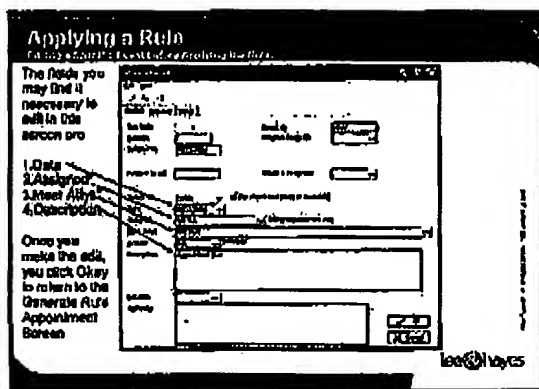
---

---

---

---

---




---

---

---

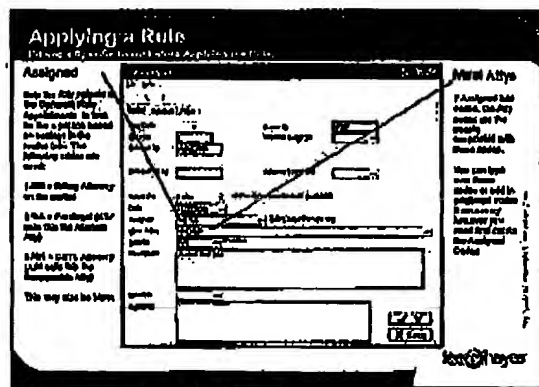
---

---

---

---

---




---

---

---

---

---

---

---

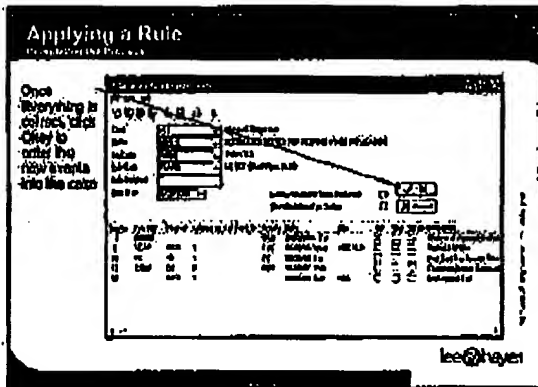
---

August 2, 2012

52

TL1-0095US / US Patent No. 6,772,077

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**




---

---

---

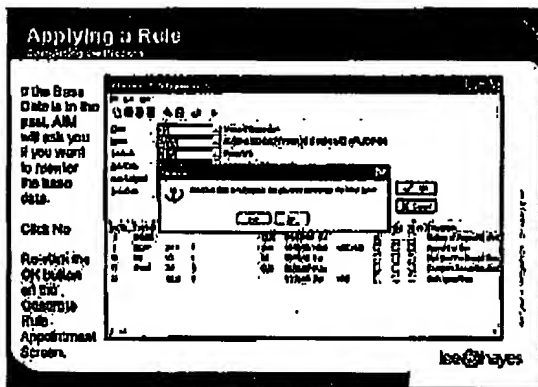
---

---

---

---

---




---

---

---

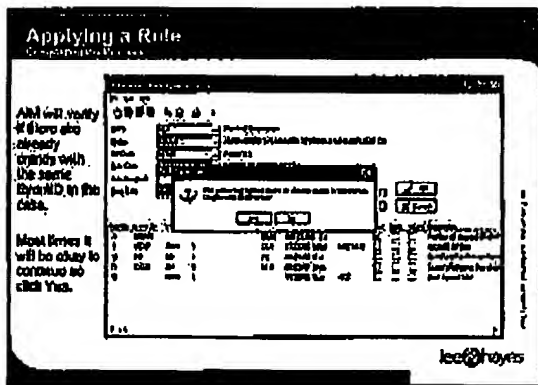
---

---

---

---

---




---

---

---

---

---

---

---

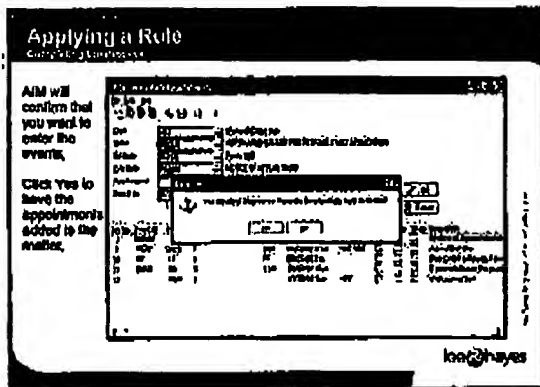
---

August 2, 2012

53

TL1-0095US / US Patent No. 8,772,077

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**




---

---

---

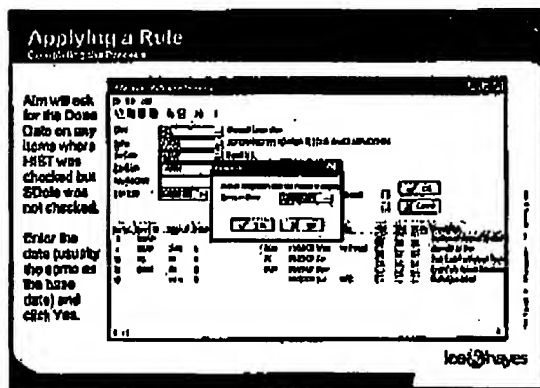
---

---

---

---

---




---

---

---

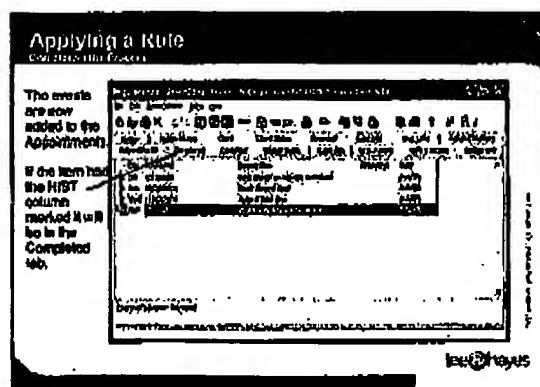
---

---

---

---

---




---

---

---

---

---

---

---

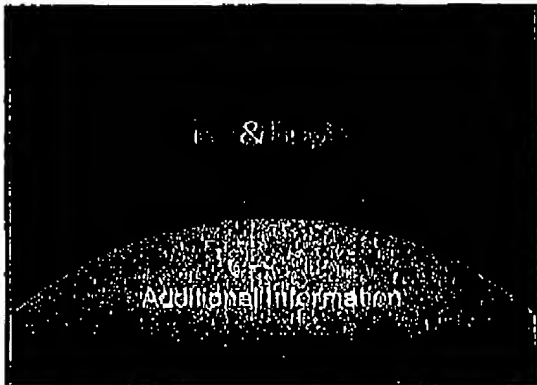
---

August 2, 2012

54

TL1-0095US / US Patent No. 6,772,077

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**




---

---

---

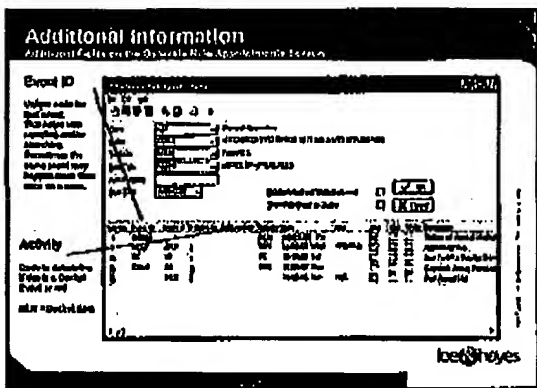
---

---

---

---

---




---

---

---

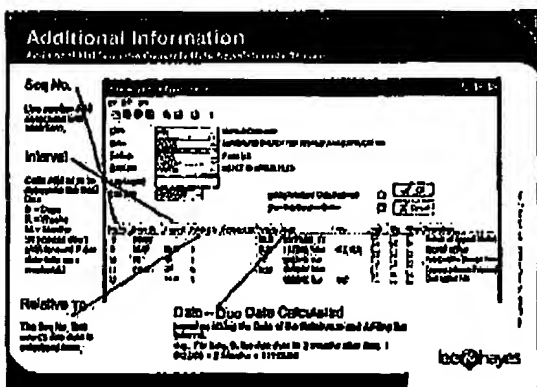
---

---

---

---

---




---

---

---

---

---

---

---

---

August 2, 2012

55

TL1-0095US / US Patent No. 6,772,077

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to Accept Unavoidably Delayed Payment of Maintenance Fee**

**Exhibit J**

**Listing of Various Documents for the process and tools**

**Process for Docketing Training (AIM)**

S. No.	Understanding / Remarks	File Name
1	An overview of Patent Process ✓	01 Patent Process (An Over View).ppt
2	Basic Training slides for AIM. Related to uploading and naming documents in AIM ✓	02 AIM Training - Doc Links Tab.ppt
3	Basic training slides for AIM, related to addition of appointment through rules ✓	03 AIM Training - Rules for Appointments in AIM.ppt
4	Basic training slides for AIM, related to case art ✓	04 AIM Training - Case Art Tab.ppt
5	Instruction to store printing commands in L&H office	05 Instruction to store printing for L&H (Spekano).doc
6	Step by Step Process for Opening New Cases in AIM	06 AIM Training - Opening New Cases.doc
7	Step by Step Process for search reports in AIM	07 AIM Training - Search Reports.doc
8	Non Docket PTO mail handling	08A Process Notice of Publications.doc 08B Process Issue Notifications.doc 08C Process Filing Receipts 08D Process Notice of Recordation.doc
9	Download documents from US PTO website through private pair for the docketing process ✓	09 AIM - USPTO Private PAIR.ppt
10	Docket PTO Mail handling ✓	10 AIM - Process Docketing Mails.doc
11	Entering new case art from docket mail	11 AIM - Entering New Case Art from Docket Mail.doc

**Process for Docketing Training (Anaqua)**

S. No.	Understanding / Remarks	File Name
12	Procedures for pre-filing, filing, pre-exam, exam, allowance and appeal documents plus general information regarding saving documents updated by Jan 2006 ✓	12 MASTER ANQUA Procedures.doc

**Other Tools**

1. Examples of non patent references in the case art section in AIM: AA Case Art Examples.doc ✓
2. Useful websites for US patent documents: AB Links.doc ✓
3. Cheat Sheet about patent documents (for AIM, Anaqua, PTO due dates etc): AC Quick Guide.doc ✓

v 2.0 Feb 6, 2007



**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

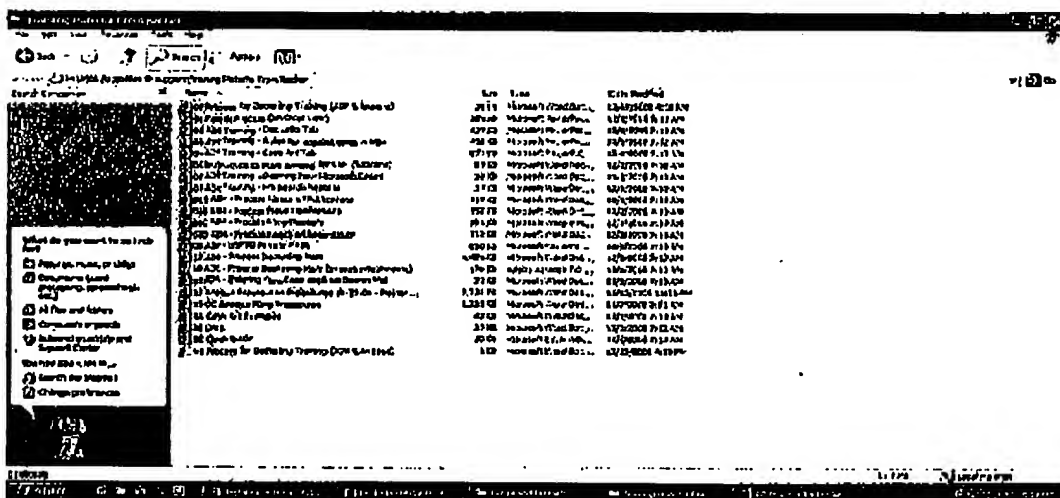
4. List of Codes to use for each country when filing or preparing documents (WIPO codes) AD Country Codes.pdf ✓
5. List of the 3 letter codes used in AIM for Lee & Hayes Staff and Attorneys AE  
~~Lee & Hayes List of Employees Codes in AIM.xls~~
6. ~~List of Expectations, Priority and Who to go to at L&H AE L&H Expectations~~  
for Bluefile Back Office Team.doc

Extent of coverage through these documents (a rough estimate)

- AIM: 95%
- Anaqua: 75-80% (Subject to further developments)

*(Note: Rachel wants to have a re-look at the complete set)*

**Screen Shot of File Names linked in this document.**



v 2.0 Feb 6, 2007

August 2, 2012

57

TL1-0095US / US Patent No. 6,772,077

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Exhibit K**

I, Dana Calhoun, declare as follows:

1. I have been an employee at Lee & Hayes since 1999.
2. I am currently the Docketing Manager at Lee & Hayes. On March 16, 2007, when U.S. Patent No. 6,772,077 (the "'077 Patent") was entered into PerfectLaw at Lee & Hayes, I worked as the Docketing Manager. My job as the Docketing Manager includes developing and implementing docketing procedures and process, training new personnel in docketing, managing workload distribution among the docketing team, administering quality control standards, and managing the transfer of files to and from the firm.
3. The '077 Patent was one of over 65 Telect patents and patent applications that was transferred to Lee & Hayes from another firm during the week of March 16, 2007. I, as well as the docketing team, was extremely busy entering all of the files into PerfectLaw and ensuring that all proper docketing rules were run.
4. As a standard procedure, I ensure that all docketing employees are well-trained through on-the-job training. As a manager, I supervise the training process to ensure that all of the docketing employees are sufficiently trained, and are provided with the resources they need to properly docket files. It is my practice to oversee the work of docketing employees throughout the training period. To the best of my knowledge, I checked Rita's review of Melissa's docketing of the '077 Patent.
5. I also supervised the incoming mail process from the USPTO for items which require docketing, ensuring that the docketing team followed the correct procedures. All mail received by the USPTO was opened, stamped with the date on the back of the document, and hole punched by General Services. It was then sent to docketing as appropriate based on the client code and reference number. A search of our document management system, as well as our docketing email system revealed no record of ever having received a Notice of Patent Expiration for the '077 Patent.
6. I was Melissa Gable's manager when she docketed the patent at issue. Though she worked primarily in accounting, Melissa had been trained in docketing. Melissa was a reliable employee, and helped the workload distribution among our docketing team the week of March 16, 2007, when our docketing load was 237.5% of the normal level. On March 16, 2007 alone, the docketing team opened 10 new files, ran 84 docketing rules, completed 44 US docketing deadlines, and received 122 emails.
7. Administering quality control standards is one of my responsibilities as the Docketing Manager and one that I take very seriously. I periodically review the work of my employees to verify quality assurance. I do not know how my team and I overlooked the fact that Melissa had forgotten to run the "P-IN" rule for the '077 Patent, since we all know it is an important step in the transfer of a file. Unfortunately this error was simply missed due to human error(s).

\*\*\*

Statement of Calhoun

1

TL1-0095US / US Patent No. 6,772,077

August 2, 2012

58

TL1-0095US / US Patent No. 6,772,077

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued therefrom.

Full name: Dana Calhoun

Executed on:

8/2/12

Signature:

Dana L. Calhoun

Residence:

Spokane, WA

Address:

601 W. Riverside Ave.

Spokane, WA

99201

Statement of Calhoun

2

TL1-0095US / US Patent No. 6,772,077

August 2, 2012

59

TL1-0095US / US Patent No. 6,772,077

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Exhibit L****Exhibit L1**

<b>1</b>	<b><u>Sort work from personal</u></b>
<b>2</b>	<b><u>Highlight on document any due dates, ln case numbers, and any "urgent" markings.</u></b>
<b>3</b>	<b><u>Date stamp all Incoming documents</u></b>
<b>4</b>	<b><u>Create cover sheet</u></b>
-	<b><u>*open matter</u></b>
-	<b><u>*right click in blank area on the toolbar</u></b>
-	<b><u>*click on "Imaging cover sheet"</u></b>
-	<b><u>*Document type: E-file</u></b>
-	<b><u>*Document name: (for example: filing receipt, Office Action...)</u></b>
-	<b><u>*Document Date: Date given on the document</u></b>
-	<b><u>*Then select Generate</u></b>
<b>5</b>	<b><u>Scan all Incoming documents</u></b>
-	<b><u>*place document with cover sheet face down on the document feeder</u></b>
-	<b><u>*select "Standard"</u></b>
-	<b><u>*select "Fine"</u></b>
-	<b><u>*select "Local Address"</u></b>
-	<b><u>*select "Misty-Desk"</u></b>
<b>6</b>	<b><u>Route scanned document with file to appropriate departments</u></b>
-	<b><u>*Check serial number on file with the serial number on the document</u></b>
-	<b><u>Docket: (Dana's Office)</u></b>
-	<b><u>*All Foreign, Office Actions, Notice of Allowance, Missing Parts &amp; Issue Notifications or/</u></b>

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

-	-	<u>any document that you have not seen before or are not sure about</u>
-	-	<u>Docket:(Rachel's Office)</u>
-	-	<u>*All Serial number post cards</u>
-	-	<u>Misty Office:</u>
-	-	<u>Filing Receipts</u>
-	-	<u>Bekah:</u>
-	-	<u>Notice of Publication and Notice of Recordation</u>

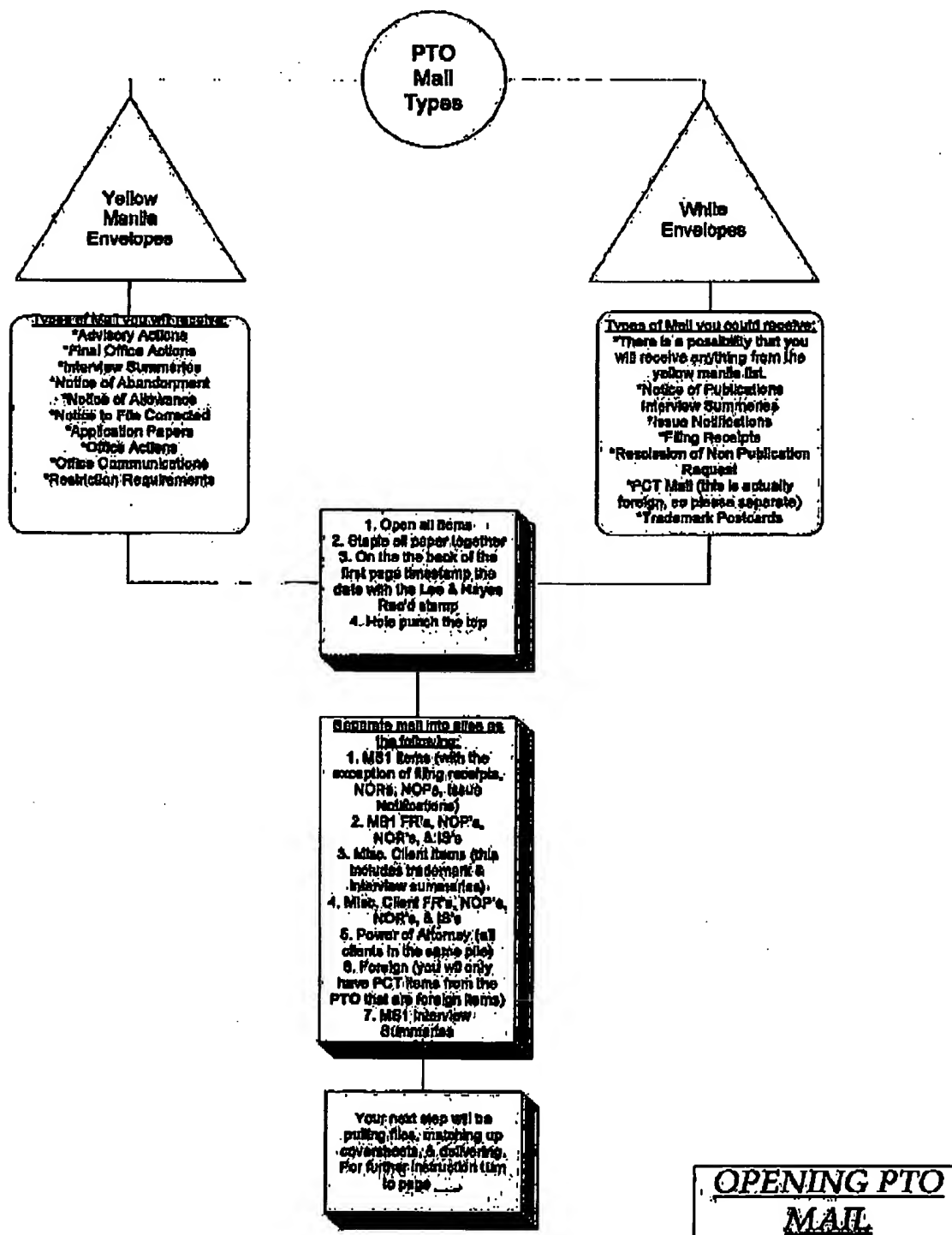
August 2, 2012

61

TL1-0095US / US Patent No. 6,772,077

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Exhibit L2**



Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

**Exhibit M**

I, Melissa Gable, declare as follows:

1. On March 16, 2007, I was an employee at Lee & Hayes.
2. I worked for Lee & Hayes from December 2004 until November 2009.
3. At Lee & Hayes, I worked primarily in the accounting department. In January 2007, I was asked if I would be willing to be cross trained for docketing. I agreed, and for the next several weeks I received training on docketing responsibilities. After training, I assisted in the docketing department, which was managed by Dana Calhoun.
4. During the transfer of a significant portion of Telect's patent portfolio from another law firm, I was asked to assist in docketing. The transfer began on March 15, 2007, and consisted of entering over 65 Telect patents and patent applications into the docketing system, including U.S. Patent No. 6,772,077 (the "077 Patent").
5. I opened the file on the '077 Patent on March 16, 2007.
6. I thought I ran both required rules, but I must have forgotten to run the "P-IN" rule at the same time as the "P-TRSF" rule. It was my usual practice to follow all of Lee & Hayes' standard procedures.
7. To the best of my recollection, I followed all of Lee & Hayes' standard procedures for inputting files when working on the '077 Patent.

All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued therefrom.

Full name: Melissa Gable

Executed on: 8/01/2012

Signature: Melissa A. Gable  
Residence: Spokane, WA  
Address: 819 E. Brady Ave.  
Spokane, WA  
99208

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

**Exhibit N**

I, Rita Martin (formerly Rita Butler), declare as follows:

1. I have been an employee at Lee & Hayes since March 19, 2007. Prior to Lee & Hayes, I had five years of experience working in the legal field, to include almost two and a half years as a paralegal.
2. Upon arrival at Lee & Hayes, I began working in the docketing department for Dana Calhoun. I currently work in the docketing department. As a member of the docketing team, I am responsible for opening files, docketing the necessary information, and reviewing other docketing team member's files.
3. During the week of March 19, 2007, I did extensive on-the-job training to learn the PerfectLaw system, and the standard procedures at Lee & Hayes. During my training and with guidance, I helped with the input of a significant portion of Telect's patent portfolio, which had been transferred from another firm. The input consisted of entering over 65 patents and patent applications into the docketing system, including U.S. Patent No. 6,772,077 (the "'077 Patent").
4. On March 29, 2007, I reviewed Melissa Gable's docketing inputs to ensure all of the rules were properly run. I know that when opening and docketing a transfer matter, the "P-IN" rule is supposed to be run as part of Lee & Hayes' standard procedures.
5. It is my practice to follow all Lee & Hayes standard procedures, and I believe that I did so on this occasion. I do not know how I overlooked the fact that the maintenance fees were not present in PerfectLaw as they should have been were the "P-IN" rule run for the '077 Patent.
6. To my knowledge, this is the only instance where, in following Lee & Hayes procedures, a docketing rule subject to my review was missed.

All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued therefrom.

Full name: Rita Martin

Executed on: 8/1/12

Signature: Rita N. Martin

Residence: Spokane, WA

Address: 601 W. Riverside Ave.

Spokane, WA  
99201



**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Exhibit Q**

**RECEIVED  
CENTRAL FAX CENTER**

**AUG 02 2012**

TL-095US

**KOPPEL, PATRICK, HEYBL & DAWSON**

**RICHARD S. KOPPEL**  
**STEVEN C. PATRICK**  
**JAYE G. HEYBL**  
**JAMES K. DAWSON**  
**DRIAN J. MILLOTT**  
**ABHAY M. KULKARNI**  
 Senior Counsel  
**MICHAEL J. RABA, D. Sc.**  
**LOUIS A. MOE**  
**ANNA M. VRADENBURGH**  
 Patent Agent  
**JOSEPH COMPTON**  
 Of Counsel  
**JILL R. HEYBL**  
**JOHN I. DENKEN**  
**JUDITH G. SMELLING, Ph.D.**  
 (Adm. In Artifacts)

555 ST. CHARLES DRIVE, SUITE 107  
 THOUSAND OAKS, CALIFORNIA 91360  
 PHONE (805) 373-0060  
 FAX (805) 373-0051

**Santa Barbara Office**  
 812 Pradino Avenue  
 Santa Barbara, CA 93101  
 Phone (805) 569-1964

**PATENTS  
TRADEMARKS  
COPYRIGHTS**

E-mail: jheybl@koppelpatent.com

March 8, 2007

Via Federal Express  
 Dave Divine  
 LEE & HAYES  
 421 West Riverside  
 Suite 500  
 Spokane, WA 99201

Re: Transfer of Telect U.S. Files

Dear Mr. Divine:

Hossein Nikdel of Telect has requested that all Telect files and paperwork be forwarded to your office. The following U.S. files are enclosed along with a printout of all calendar entries.

Docket No.	Title	Serial No./ Patent No.
381-07-001 ✓	Miscellaneous	
381-27-003 ✓	[REDACTED]	[REDACTED]
381-27-004 ✓	[REDACTED]	[REDACTED]
381-27-005 ✓	[REDACTED]	[REDACTED]

August 2, 2012

65

TL1-0095US / US Patent No. 6,772,077

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

Dave Divine  
March 8, 2007  
Page 2

381-27-006	✓	[REDACTED]	[REDACTED]
381-27-007	✓	[REDACTED]	[REDACTED]
381-27-009	✓	[REDACTED]	[REDACTED]
381-27-010	✓	[REDACTED]	[REDACTED]
381-27-012	✓	[REDACTED]	[REDACTED]
381-27-013	✓	[REDACTED]	[REDACTED]
381-27-014	✓	[REDACTED]	[REDACTED]
381-27-015	✓	[REDACTED]	[REDACTED]
381-27-016	✓	[REDACTED]	[REDACTED]
381-27-017	✓	[REDACTED]	[REDACTED]
381-27-025	✓	[REDACTED]	[REDACTED]
381-27-030	✓	[REDACTED]	[REDACTED]
381-27-031	✓	[REDACTED]	[REDACTED]
381-27-032	✓	[REDACTED]	[REDACTED]
381-27-033	✓	[REDACTED]	[REDACTED]
381-27-034	✓	[REDACTED]	[REDACTED]
381-27-035	✓	[REDACTED]	[REDACTED]

August 2, 2012

68

TL1-0095US / US Patent No. 6,772,077

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

Dave Divine  
March 8, 2007  
Page 3

381-27-037	✓	[REDACTED]	[REDACTED]
381-27-038	✓	[REDACTED]	[REDACTED]
381-27-039	✓	[REDACTED]	[REDACTED]
381-27-040	✓	[REDACTED]	[REDACTED]
381-27-041	✓	[REDACTED]	[REDACTED]
381-27-042	✓	[REDACTED]	[REDACTED]
381-27-043	✓	[REDACTED]	[REDACTED]
381-27-044	✓	[REDACTED]	[REDACTED]
381-27-045	✓	[REDACTED]	[REDACTED]
381-27-049	✓	[REDACTED]	[REDACTED]
381-27-053	✓	[REDACTED]	[REDACTED]
381-67-054	✓	[REDACTED]	[REDACTED]
381-77-055		[REDACTED]	[REDACTED]
381-67-056		[REDACTED]	[REDACTED]
381-27-057	✓	[REDACTED]	[REDACTED]
381-27-058	✓	[REDACTED]	[REDACTED]
381-27-060	✓	[REDACTED]	[REDACTED]

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

Dave Divine  
March 8, 2007  
Page 4

381-82-063	✓	[REDACTED]	[REDACTED]
381-27-064	✓	[REDACTED]	[REDACTED]
381-27-065	✓	[REDACTED]	[REDACTED]
381-27-065CO	✓	[REDACTED]	[REDACTED]
381-27-067	✓	[REDACTED]	[REDACTED]

A Withdrawal of Attorney has been filed for all active files.

Best regards,  
KOPPEL, PATRICK, HEYBL & DAWSON

  
Jaye G. Heybl

JGH/mm  
Enclosures  
H/37-381-Dave Divine US

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

February 20, 2007

**KOPPEL PATRICK HEYBL & DAWSON CALENDAR PRINTOUT FOR:  
TELECT, INC.**

**Comprehensive Patent Calendar Printout of All Calendar Items**

**- completed items removed -**

ACT	DATE	DESCRIPTION	REMARKS	STATUS	REMARKS	REMARKS	REMARKS
JGH	04/09/2007	381-17-049	TELECT, INC.				
JGH	05/09/2007	381-17-049	TELECT, INC.				
JGH	03/09/2007	381-17-047	TELECT, INC.				
JGH	08/18/2007	381-17-042	TELECT, INC.				
JGH	08/28/2007	381-17-041	TELECT, INC.				
JGH	07/13/2007	381-17-020	TELECT, INC.				
JGH	07/14/2007	381-17-023	TELECT, INC.				
JGH	08/18/2007	381-17-024	TELECT, INC.				

Regular type=reminder, Italics=due date, Bold=statutory bar date

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

JGH	08/14/2007	381-17-436	TELECT, INC.			
JGH	08/16/2007	381-17-439	TELECT, INC.			
JGH	08/14/2007	381-17-421	TELECT, INC.			
JGH	08/31/2007	381-17-419	TELECT, INC.			
JGH	08/31/2007	381-17-418	TELECT, INC.			
JGH	08/16/2007	381-17-406	TELECT, INC.			
JGH	10/24/2007	381-17-428	TELECT, INC.			
JGH	10/24/2007	381-17-427	TELECT, INC.			
JGH	10/24/2007	381-17-429	TELECT, INC.			
JGH	12/03/2007	381-17-434	TELECT, INC.			
JGH	12/19/2007	381-17-442	TELECT, INC.			
JGH	12/28/2007	381-17-441	TELECT, INC.			
JGH	01/18/2008	381-17-441	TELECT, INC.			

Regular type=reminder, *italics*=due date, **Bold**=statutory bar date

2

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

JGH	01/18/2008	381-17-059	TELECT, INC.		
JGH	01/18/2008	381-17-059	TELECT, INC.		
JGH	02/05/2008	381-27-011	TELECT, INC.		
JGH	02/14/2008	381-27-017	TELECT, INC.		
JGH	03/18/2008	381-27-038	TELECT, INC.		
JGH	04/01/2008	381-17-049	TELECT, INC.		
JGH	04/17/2008	381-27-044	TELECT, INC.		
JGH	05/03/2008	381-27-08500	TELECT, INC.		
JGH	05/08/2008	381-17-047	TELECT, INC.		
JGH	05/12/2008	381-27-043	TELECT, INC.		
JGH	06/08/2008	381-27-038	TELECT, INC.		
JGH	07/13/2008	381-17-020	TELECT, INC.		

Regular type=reminder, *Italics*=due date, **Dold**=statutory bar date

3

August 2, 2012

71

TL1-0095US / US Patent No. 6,772,077

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

JGH	08/19/2008	381-17-020	TELECT, INC.		
JGH	08/03/2008	381-17-014	TELECT, INC.		
JGH	08/13/2008	381-17-021	TELECT, INC.		
JGH	08/14/2008	381-17-021	TELECT, INC.		
JGH	08/14/2008	381-17-021	TELECT, INC.		
JGH	08/14/2008	381-17-021	TELECT, INC.		
JGH	08/23/2008	381-17-016	TELECT, INC.		
JGH	08/24/2008	381-17-017	TELECT, INC.		
JGH	08/21/2008	381-17-018	TELECT, INC.		
JGH	08/31/2008	381-17-018	TELECT, INC.		
JGH	10/17/2008	381-17-022	TELECT, INC.		
JGH	10/24/2008	381-17-028	TELECT, INC.		
JGH	10/24/2008	381-17-028	TELECT, INC.		

Regular type=reminder, *Italics*=due date, **Bold**=statutory bar date

4

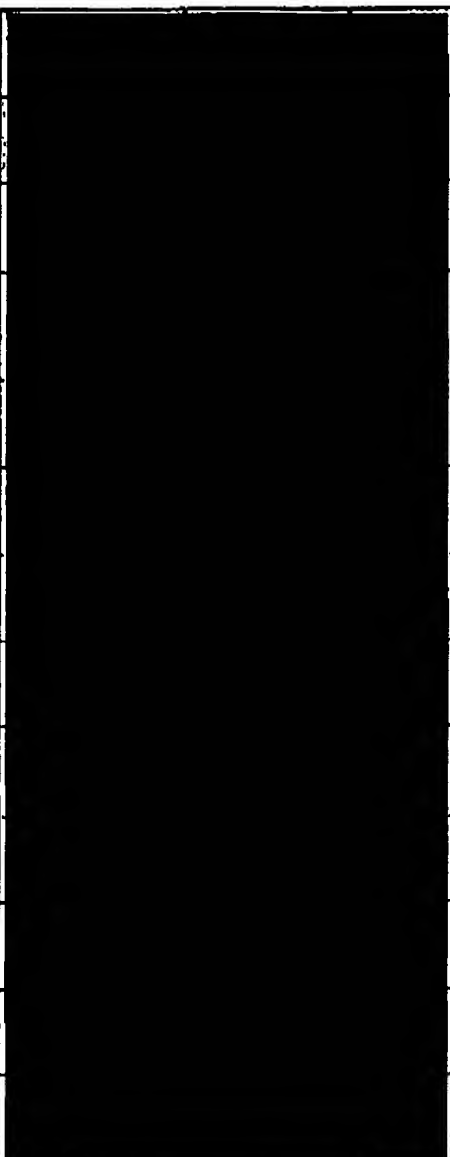

August 2, 2012

72

TL1-0085US / US Patent No. 6,772,077



**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

JGH	10/24/2008	381-17-027	TELECT, INC.			
JGH	11/06/2008	381-17-028	TELECT, INC.			
JGH	11/12/2008	381-17-043	TELECT, INC.			
JGH	01/18/2009	381-17-032	TELECT, INC.			
JGH	01/18/2009	381-17-039	TELECT, INC.			
JGH	02/28/2009	381-17-016	TELECT, INC.			
JGH	04/01/2009	381-17-048	TELECT, INC.			
JGH	05/06/2009	381-17-047	TELECT, INC.			
JGH	05/08/2009	381-17-004	TELECT, INC.			
JGH	07/13/2009	381-17-020	TELECT, INC.			
JGH	07/14/2009	381-17-023	TELECT, INC.			
JGH	08/14/2009	381-17-038	TELECT, INC.			
JGH	08/14/2009	381-17-021	TELECT, INC.			

Regular type=reminder, *Italics*=due date, **Bold**=statutory bar date

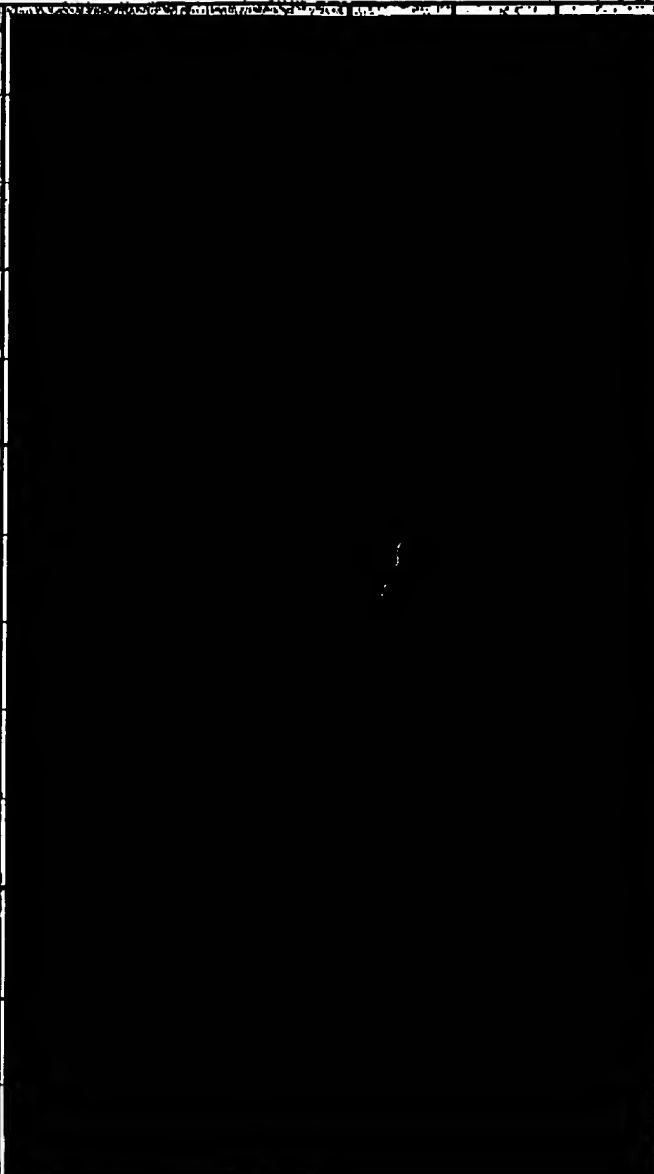
5

August 2, 2012

73

TL1-0095US / US Patent No. 6,772,077

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

JGH	08/14/2008	381-17-011	TELECT, INC.	
JGH	08/31/2008	381-17-019	TELECT, INC.	
JGH	08/31/2008	381-17-019	TELECT, INC.	
JGH	09/12/2008	381-27-012	TELECT, INC.	
JGH	09/28/2008	381-27-019	TELECT, INC.	
JGH	10/24/2009	381-17-027	TELECT, INC.	
JGH	10/24/2009	381-17-028	TELECT, INC.	
JGH	10/24/2009	381-17-028	TELECT, INC.	
JGH	12/04/2009	381-27-009	TELECT, INC.	
JGH	12/11/2009	381-27-006	TELECT, INC.	
JGH	01/18/2010	381-17-050	TELECT, INC.	
JGH	01/18/2010	381-17-050	TELECT, INC.	
JGH	08/12/2011	381-27-019	TELECT, INC.	

Regular type=reminder, *Italics*=due date, **Bold**=statutory bar date

6

August 2, 2012

74

TL1-0095US / US Patent No. 6,772,077

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

JGH	02/28/2010	381-17-010	TELECT, INC.
JGH	04/01/2010	381-17-011	TELECT, INC.
JGH	05/08/2010	381-17-047	TELECT, INC.
JGH	06/04/2010	381-17-050	TELECT, INC.
JGH	06/11/2010	381-17-058	TELECT, INC.
JGH	07/13/2010	381-17-020	TELECT, INC.
JGH	07/14/2010	381-17-023	TELECT, INC.
JGH	08/11/2010	381-17-031	TELECT, INC.
JGH	08/14/2010	381-17-059	TELECT, INC.
JGH	08/14/2010	381-17-060	TELECT, INC.
JGH	08/14/2010	381-17-021	TELECT, INC.
JGH	08/21/2010	381-17-016	TELECT, INC.
JGH	08/21/2010	381-17-018	TELECT, INC.

Regular type=reminder, *Italics*=due date, **Bold**=statutory bar date

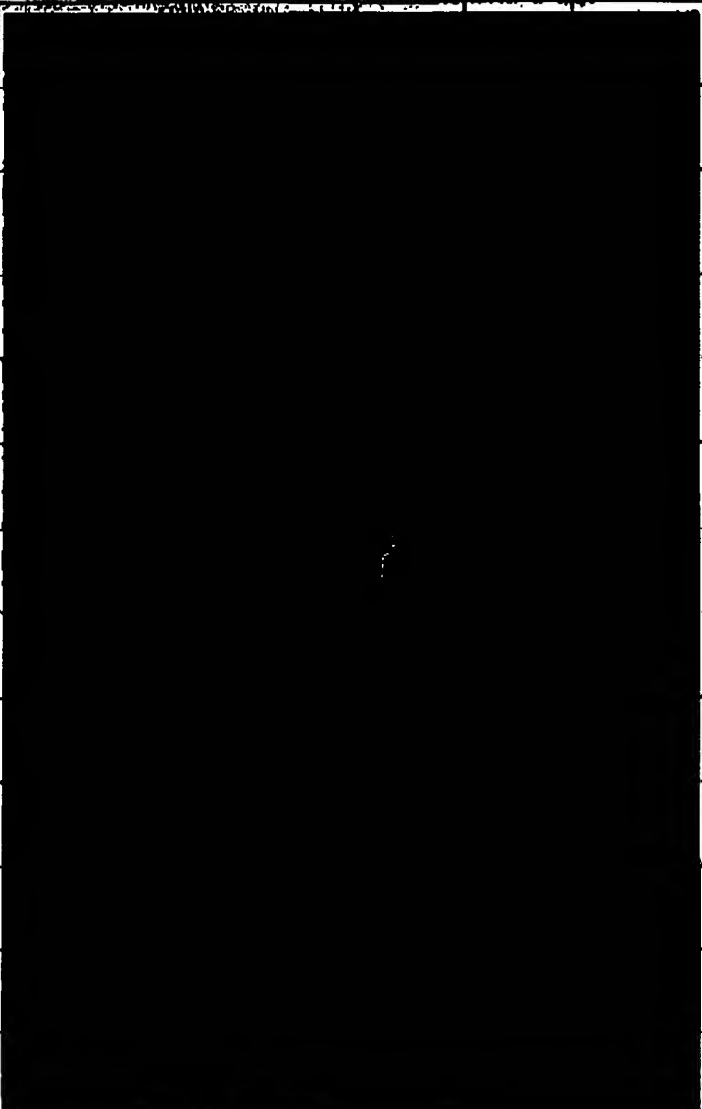
7

August 2, 2012

75

TL1-0095US / US Patent No. 6,772,077

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

JGH	08/04/2010	381-27-013	TELECT, INC.	
JGH	11/13/2010	381-27-013	TELECT, INC.	
JGH	01/18/2011	381-17-052	TELECT, INC.	
JGH	01/18/2011	381-17-050	TELECT, INC.	
JGH	02/11/2011	381-17-051	TELECT, INC.	
JGH	02/04/2011	381-17-053	TELECT, INC.	
JGH	04/01/2011	381-17-048	TELECT, INC.	
JGH	05/13/2011	381-17-013	TELECT, INC.	
JGH	05/23/2011	381-17-011	TELECT, INC.	
JGH	07/14/2011	381-17-023	TELECT, INC.	
JGH	08/14/2011	381-17-009	TELECT, INC.	
JGH	08/19/2011	381-17-021	TELECT, INC.	
JGH	08/19/2011	381-17-058	TELECT, INC.	

Regular type=reminder, *Italics*=due date, **Bold**=statutory bar date

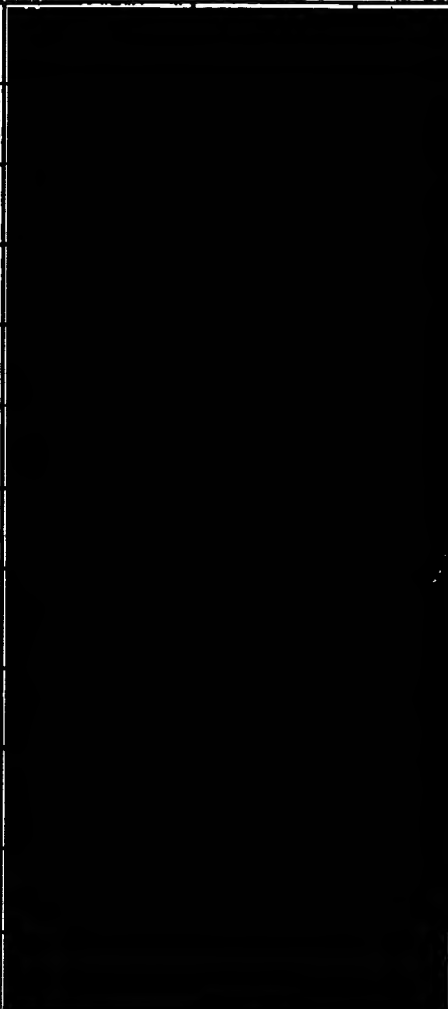


8

August 2, 2012

76

TL1-0095US / US Patent No. 6,772,077

**Exhibits Accompanying Petition under 37 CFR §.1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

JGH	08/31/2011	381-17-018	TELECT, INC.			
JGH	09/30/2011	381-17-019	TELECT, INC.			
JGH	09/18/2011	381-27-005	TELECT, INC.			
JGH	12/08/2011	381-27-034	TELECT, INC.			
JGH	12/15/2011	381-17-022	TELECT, INC.			
JGH	02/28/2012	381-27-041	TELECT, INC.			
JGH	01/18/2012	381-17-050	TELECT, INC.			
JGH	01/18/2012	381-17-052	TELECT, INC.			
JGH	02/03/2012	381-27-014	TELECT, INC.			
JGH	02/24/2012	381-27-017	TELECT, INC.			
JGH	03/19/2012	381-27-006	TELECT, INC.			
JGH	04/17/2012	381-27-044	TELECT, INC.			

Regular type=reminder, *Italics*=due date, **Bold**=statutory bar date

9

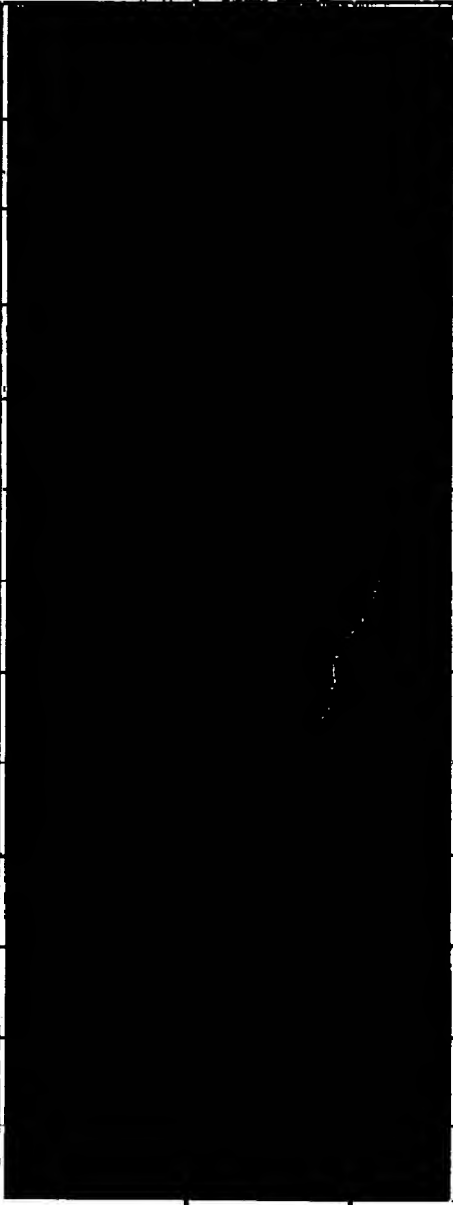

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

JGH	06/08/2012	391-27-034	TELECT, INC.			
JGH	07/12/2012	391-27-023	TELECT, INC.			
JGH	08/02/2012	391-27-014	TELECT, INC.			
JGH	08/14/2012	391-27-039	TELECT, INC.			
JGH	08/14/2012	391-27-036	TELECT, INC.			
JGH	08/14/2012	391-27-021	TELECT, INC.			
JGH	08/22/2012	391-27-015	TELECT, INC.			
JGH	08/24/2012	391-27-017	TELECT, INC.			
JGH	08/31/2012	391-27-019	TELECT, INC.			
JGH	08/31/2012	391-27-018	TELECT, INC.			
JGH	10/17/2012	391-27-044	TELECT, INC.			
JGH	11/08/2012	391-27-004	TELECT, INC.			

Regular type=reminder, *Italics*=due date, **Bold**=statutory bar date

10

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

JGH	01/18/2013	381-17-052	TELECT, INC.			
JGH	01/23/2013	381-17-050	TELECT, INC.			
JGH	02/22/2013	381-17-016	TELECT, INC.			
JGH	03/08/2013	381-17-059	TELECT, INC.			
JGH	07/14/2013	381-17-023	TELECT, INC.			
JGH	08/14/2013	381-17-036	TELECT, INC.			
JGH	08/14/2013	381-17-021	TELECT, INC.			
JGH	08/14/2013	381-17-039	TELECT, INC.			
JGH	08/31/2013	381-17-018	TELECT, INC.			
JGH	08/31/2013	381-17-019	TELECT, INC.			
JGH	08/31/2013	381-17-012	TELECT, INC.			
JGH	09/23/2013	381-17-010	TELECT, INC.			
JGH	12/04/2013	381-17-009	TELECT, INC.			

Regular type=reminder, Italic=due date, Bold=statutory bar date

11

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

JGH	12/11/2013	381-17-051	TELECT, INC.		
JGH	01/18/2014	381-17-052	TELECT, INC.		
JGH	01/23/2014	381-17-053	TELECT, INC.		
JGH	03/12/2014	381-27-012	TELECT, INC.		
JGH	03/23/2014	381-27-011	TELECT, INC.		
JGH	06/04/2014	381-27-009	TELECT, INC.		
JGH	06/11/2014	381-27-008	TELECT, INC.		
JGH	07/14/2014	381-17-023	TELECT, INC.		
JGH	08/11/2014	381-27-031	TELECT, INC.		
JGH	08/14/2014	381-17-021	TELECT, INC.		
JGH	08/14/2014	381-17-030	TELECT, INC.		
JGH	08/14/2014	381-17-059	TELECT, INC.		
JGH	08/31/2014	381-17-010	TELECT, INC.		

Regular type=reminder, Italic=due date, Bold=statutory bar date

12



**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Exhibit P****Exhibit P1**

**From:** Dave Divine  
**Sent:** Wednesday, April 11, 2007 2:16 PM  
**To:** 'Hossein Nikdel'; Mike McNelly; 'Walt Taksaki'  
**Cc:** 'Tina Collison'; LHDocket; LeAnn Sassman  
**Subject:** Patent Maintenance fees

Hi All,

This is just a reminder that maintenance fees are due in the following patents on the dates specified below.

Client	Patent	Legal	Due	Due	Due
No.	Id.	Number	Initial	Date	Amount
<b>US ISSUED PATENTS</b>					
TL1- 0062US			DAD	10/14/2003	Due: 3 1/2 year maintenance fee w/o surcharge
TL1- 0069US			DAD	10/14/2003	Due: 3 1/2 year maintennnce fee w/o surcharge
TL1- 0070US			DAD	10/14/2003	Due: 3 1/2 year maintenance fee w/o surcharge
TL1- 0051US			DAD	11/2/1999	7 1/2 year Maintenance Fee Due

(Please let us know if you would like us to pay the maintenance fees.) If necessary, the due dates for payment of the maintenance fees may be extended for six months upon payment of a surcharge. (However, in the absence of your contrary instructions, we will pay the issue fees by the due dates to avoid incurring any surcharges.)

Let me know if you have any questions or if I can be of further assistance.

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

Thanks,

Dave Divine

(509)324-9256 x233

[daved@leehayes.com](mailto:daved@leehayes.com)

Lee & Hayes pllc, Intellectual Property Law

421 West Riverside, Suite 500, Spokane, WA 99201 | 509.323-8878 fax | [www.leehayes.com](http://www.leehayes.com)

NOTE: This email and any attachments contain information from the law firm of Lee & Hayes, pllc, that is confidential and/or subject to attorney-client privilege. If you are not the intended recipient of this message, please do not read it or disclose it to others. Instead, please delete it and notify the sender immediately.

---

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

**Exhibit P2**

[REDACTED]

ToDo [JLP RGH]  
• Reminder letter re: 3 1/2 year fee due

[REDACTED]

ToDo [JLP RGH]  
• Due: 3 1/2 year maintenance fee w/o surcharge

[REDACTED]

ToDo [JLP RGH]  
• Due: 4 year maintenance Fee with surcharge

[REDACTED]

ToDo [JLP RGH]  
• Reminder letter re: 7 1/2 year maintenance fee w/o surcharge

[REDACTED]

ToDo [JLP RGH]  
• Due: 7 1/2 year maintenance fee w/o surcharge

[REDACTED]

ToDo [JLP RGH]  
• Due: 8 year maintenance fee with surcharge

[REDACTED]

ToDo [JLP RGH]  
• Reminder letter re: 11 1/2 year maintenance fee w/o surcharge

[REDACTED]

ToDo [JLP RGH]  
• Due: 11 1/2 year maintenance fee w/o surcharge

[REDACTED]

ToDo [JLP RGH]  
• Due: 12 year maintenance fee with surcharge

[REDACTED]

ToDo [LAH]  
• Close Case in AIM

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Exhibit Q**

I, Jessica West, declare as follows:

1. I have been an employee of Lee & Hayes since October 2007.
2. As a member of the docketing team, I am responsible for opening files, docketing the necessary information, and reviewing other team member's files. I am also responsible for communicating with clients and attorneys when necessary.
3. On March 26, 2012, I received the Notice of Patent Expiration on US Patent No. 7,331,829 (the "829 Patent") in docketing, and entered it into PerfectLaw. I thought that the expiration was potentially unintentional, so I immediately took it to the responsible attorney on the case, Dave Divine. On the same day, Dave Divine submitted a Petition to Accept Unintentionally Delayed Payment of Maintenance Fee.
4. On March 28, 2012, I emailed Telect to inform them about the Notice of Patent Expiration, the Petition to Accept Unintentionally Delayed Payment of Maintenance Fee, and the automatic grant of the petition.
5. On March 29, 2012, I began a manual audit of all Telect files to ensure that there were no other docketing errors. I finished the audit on April 4, 2012. During the audit, I discovered that US Patent No. 6,772,077 (the "077 Patent") was docketed as having been issued, but no maintenance fees were docketed. The US Patent and Trademark Office (the "USPTO") maintenance fee records indicated that the '077 Patent had expired for failure to pay maintenance fees.
6. Between April 4, 2012, when I concluded the audit, and April 6, 2012, I searched the firm's individual and docketing archived email accounts to determine whether Lee & Hayes had ever received an instruction from the client to allow this patent to expire. I did not find any email that indicated that the client wanted the patent to expire.
7. On April 6, 2012, I also assisted in the search of Lee & Hayes' document management system, as well as the docketing email system to determine if we had ever received a Notice of Patent Expiration of the '077 Patent from the USPTO. I did not find any record of the firm having received a Notice of Patent Expiration.
8. On Monday April 9, 2012, I met with Dave Divine and Rhonda Bogart to discuss the manual audit and the Petition. That day and the next, I verified the results of the search I conducted for evidence of the client's instructions with respect to the patent expiration. Following verification of my search, I emailed Telect to confirm that they did not want the patent to expire. That same day Telect responded confirming that they did not intend for the '077 Patent to expire.

\*\*\*

Statement of West

1

TL1-0095US / US Patent No. 6,772,077

August 2, 2012

84

TL1-0095US / US Patent No. 6,772,077

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued therefrom.

Full name: Jessica West

Executed on:

Aug. 2, 2012

Signature:

Residence:

Address:

Spokane, WA

601 W. Riverside Ave.

Spokane, WA

99201

Statement of West

2

TL1-0095US / US Patent No. 6,772,077

August 2, 2012

85

TL1-0095US / US Patent No. 6,772,077

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

**Exhibit R**

From: Jessica West  
To: pknight@telect.com; Zachary Cleary  
Cc: Paul; Dave Divine; Chem Simon  
Subject: TL1-0095US Patent Expiration  
Date: Wednesday, April 11, 2012 11:06:58 AM  
Attachments: image001.jpg

---

Dear Paul and Zach,

After the last email I sent you on March 28<sup>th</sup> when we received Notice of Patent Expiration, I decided to audit all existing Telect patents to insure that no additional errors had been made in the docketing of maintenance fees. On April 4<sup>th</sup> I found a case where the patent had expired from lapse of fees paid and did some additional research to verify if this was unintentional or intentional expiration. The case I found is Application 09/762,562, Patent 6,772,077 - Electric Arc Monitoring Systems. This case was transferred into us from Koppel on March 16, 2007. The 4<sup>th</sup> year maintenance fee was due on 8/3/2008. This was not paid. As with the previous patent, these cases were apparently not docketed properly when they were transferred in. We have no record of receiving a Notice of Patent Expiration from the USPTO. I have found the paper file from the transfer and have done a search of all email boxes to see if this lack of payment was intentional but can't find anything that would indicate that we were instructed to let the patent expire on purpose. I spoke with the Office of Petitions at the USPTO and we do have the option to Petition to revive this patent along with payment of the 4 year maintenance fee. Before we go thru this process, however, we did want to check in with you both to verify that this case was not intentionally allowed to expire.

Please know that we have all taken this situation extremely seriously and the result was this extensive manual audit of all Telect files here at Lee & Hayes. I have discussed this matter with Dave Divine and we have reviewed policies and practices for the future maintenance fees within the docketing department. We appreciate our relationship with Telect and want to make sure we process the above file as you intend. Therefore, before we petition to reinstate this patent, please verify that you would like to maintain the pendency of this patent. If so, we will file the petition at Lee & Hayes expense.

Sincerely,

Jessica West  
Docketing  
(509) 944.4772  
[jessica@leehayes.com](mailto:jessica@leehayes.com)

sig-image



Lee & Hayes plc, Intellectual Property Law  
601 West Riverside, Suite 1400, Spokane, WA 99201 | (509)323-8979 fax | [www.leehayes.com](http://www.leehayes.com)

NOTE: This email and any attachments contain information from the law firm of Lee & Hayes, plc, that is confidential and/or subject to attorney-client privilege. If you are not the intended recipient of this message, please do not read it or disclose it to others. Instead, please delete it and notify the sender immediately.

---

August 2, 2012

66

TL1-0095US / US Patent No. 6,772,077

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

**Exhibit S**

From: Paul Knight  
To: Dave Divine  
Cc: Jessica West; Rhonda Boort  
Subject: Re: Abandoned-Issued Report [REDACTED]  
Date: Wednesday, April 11, 2012 7:39:02 PM

---

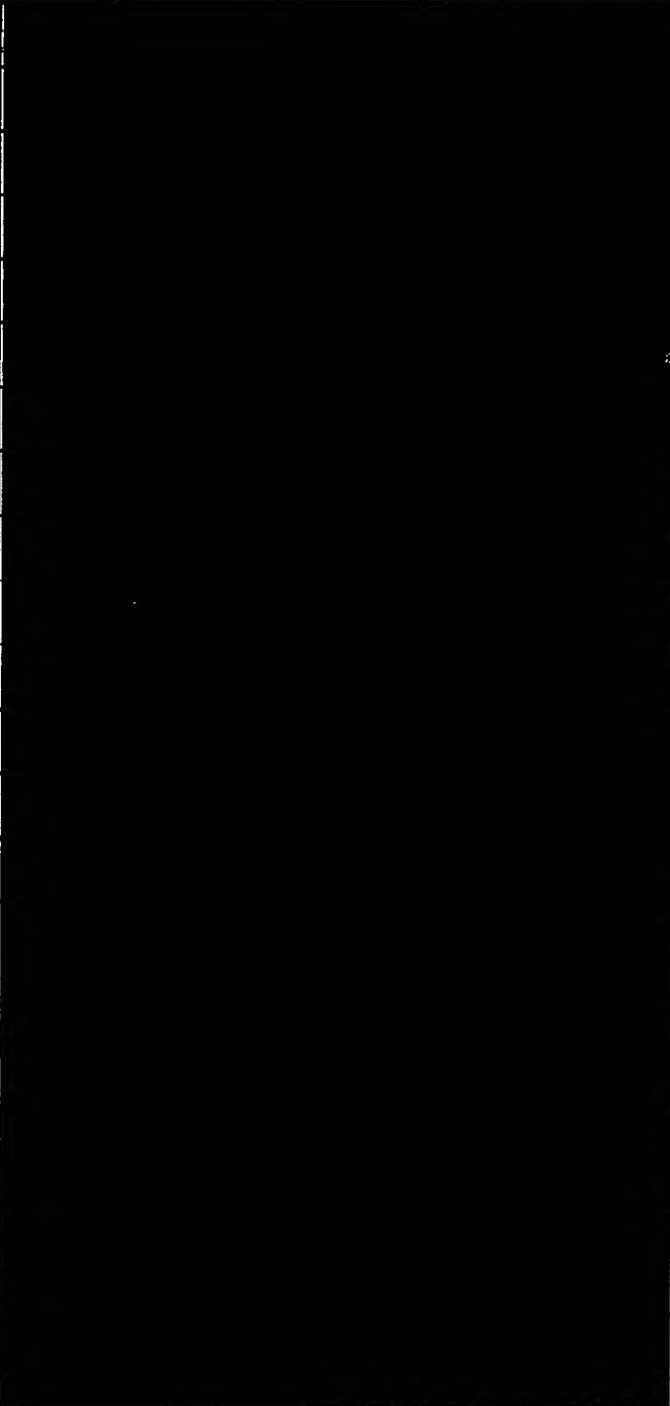
It is one we want to maintain. [REDACTED]

Sent from my iPad

---

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Exhibit T**

<u>Client Code</u>	<u>Matter Code</u>	<u>Name</u>	<u>Start Date</u>
<u>TL1</u>	<u>0094CA</u>		<u>3/16/2007</u>
<u>TL1</u>	<u>0094CN</u>		<u>3/16/2007</u>
<u>TL1</u>	<u>0094EP</u>		<u>3/16/2007</u>
<u>TL1</u>	<u>0094JP</u>		<u>3/15/2007</u>
<u>TL1</u>	<u>0094PCT</u>		<u>3/15/2007</u>
<u>TL1</u>	<u>0094US</u>		<u>3/15/2007</u>
<u>TL1</u>	<u>0094USC1</u>		<u>3/15/2007</u>
<u>TL1</u>	<u>0095AU</u>		<u>3/16/2007</u>
<u>TL1</u>	<u>0095AUC1</u>		<u>3/16/2007</u>
<u>TL1</u>	<u>0095EP</u>		<u>3/16/2007</u>
<u>TL1</u>	<u>0095EPC1</u>		<u>3/16/2007</u>
<u>TL1</u>	<u>0095HK</u>		<u>3/16/2007</u>
<u>TL1</u>	<u>0095PCT</u>		<u>3/16/2007</u>
<u>TL1</u>	<u>0095US</u>		<u>3/16/2007</u>
<u>TL1</u>	<u>0096AU</u>		<u>3/17/2007</u>
<u>TL1</u>	<u>0096CA</u>		<u>3/17/2007</u>
<u>TL1</u>	<u>0096CH</u>		<u>3/17/2007</u>
<u>TL1</u>	<u>0096CN</u>		<u>3/15/2007</u>
<u>TL1</u>	<u>0096DE</u>		<u>3/17/2007</u>

August 2, 2012

88

TL1-0095US / US Patent No. 6,772,077



**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

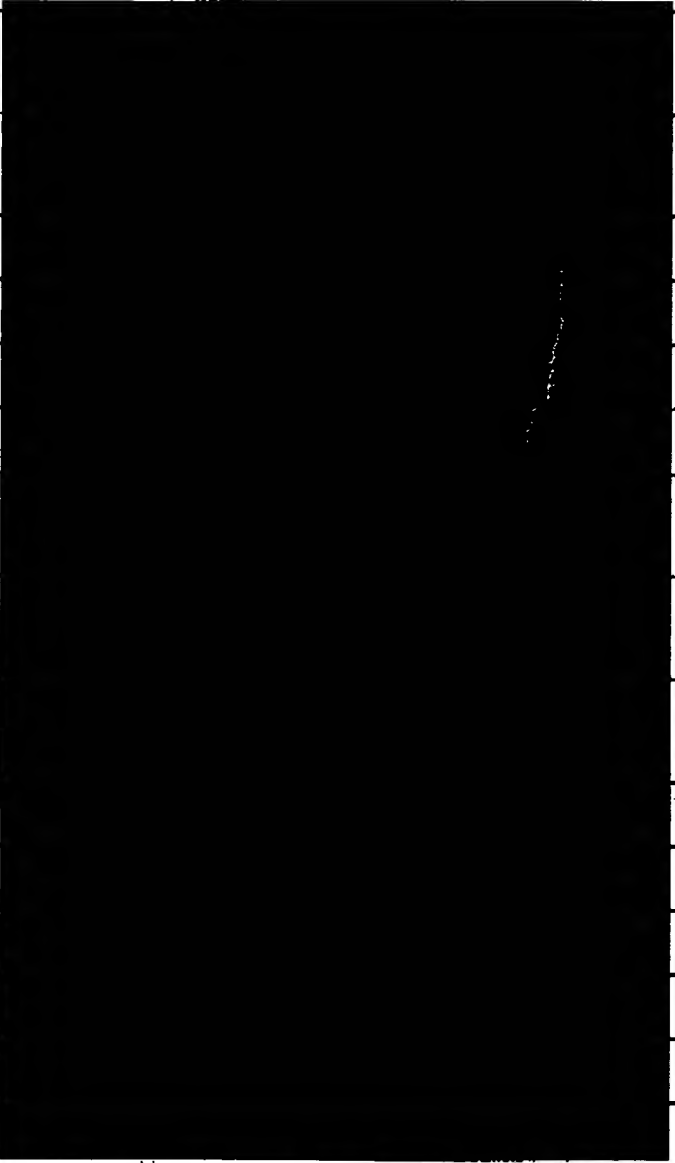
		<u>Detection</u>	
<u>TL1</u>	<u>0096EP</u>	<u>Electric Arc and Radio Frequency Spectrum Detection</u>	<u>3/17/2007</u>
<u>TL1</u>	<u>0096FR</u>	<u>Electric Arc and Radio Frequency Spectrum Detection</u>	<u>3/17/2007</u>
<u>TL1</u>	<u>0096GB</u>	<u>Electric Arc and Radio Frequency Spectrum Detection</u>	<u>3/17/2007</u>
<u>TL1</u>	<u>0096IT</u>	<u>Electric Arc and Radio Frequency Spectrum Detection</u>	<u>3/17/2007</u>
<u>TL1</u>	<u>0096JP</u>	<u>Electric Arc and Radio Frequency Spectrum Detection</u>	<u>3/17/2007</u>
<u>TL1</u>	<u>0096KR</u>	<u>Electric Arc and Radio Frequency Spectrum Detection</u>	<u>3/17/2007</u>
<u>TL1</u>	<u>0096MX</u>	<u>Electric Arc and Radio Frequency Spectrum Detection</u>	<u>3/17/2007</u>
<u>TL1</u>	<u>0096NL</u>	<u>Electric Arc and Radio Frequency Spectrum Detection</u>	<u>3/17/2007</u>
<u>TL1</u>	<u>0096PCT</u>	<u>Electric Arc and Radio Frequency Spectrum Detection</u>	<u>3/15/2007</u>
<u>TL1</u>	<u>0096SE</u>	<u>Electric Arc and Radio Frequency Spectrum Detection</u>	<u>3/17/2007</u>
<u>TL1</u>	<u>0097PCT</u>	<u>Arc Detection by Non-Casual Signal Correlation</u>	<u>3/17/2007</u>
<u>TL1</u>	<u>0097US</u>	<u>Arc Detection by Non-Casual Signal Correlation</u>	<u>3/17/2007</u>
<u>TL1</u>	<u>0098PCT</u>	<u>Load Shipping Systems</u>	<u>3/17/2007</u>
<u>TL1</u>	<u>0098US</u>	<u>Load Shipping Systems</u>	<u>3/17/2007</u>
<u>TL1</u>	<u>0099PCT</u>	<u>Electric Arc Synthesis for Arc Detector Testing and Method f</u>	<u>3/19/2007</u>

August 2, 2012

89

TL1-0096US / US Patent No. 6,772,077

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

<u>TL1</u>	<u>0099US</u>	<u>Electric Arc Synthesis for Arc Detector Testing and Method f</u>	<u>3/19/2007</u>
<u>TL1</u>	<u>0099USP1</u>	<u>Electric Arc Synthesis for Arc Detector Testing and Method f</u>	<u>3/19/2007</u>
<u>TL1</u>	<u>0100PCT</u>	<u>Arc Detection Apparatus Utilizing A Dynamic Processing Modul</u>	<u>3/19/2007</u>
<u>TL1</u>	<u>0100US</u>		<u>3/19/2007</u>
<u>TL1</u>	<u>0100USP1</u>		<u>3/19/2007</u>
<u>TL1</u>	<u>0101PCT</u>		<u>3/21/2007</u>
<u>TL1</u>	<u>0101US</u>		<u>3/21/2007</u>
<u>TL1</u>	<u>0101USC1</u>		<u>3/21/2007</u>
<u>TL1</u>	<u>0101USC2</u>		<u>3/21/2007</u>
<u>TL1</u>	<u>0102US</u>		<u>3/21/2007</u>
<u>TL1</u>	<u>0102USC1</u>		<u>3/21/2007</u>
<u>TL1</u>	<u>0102USP1</u>		<u>3/21/2007</u>
<u>TL1</u>	<u>0103CN</u>		<u>3/21/2007</u>
<u>TL1</u>	<u>0103EP</u>		<u>3/21/2007</u>
<u>TL1</u>	<u>0103JP</u>		<u>3/21/2007</u>
<u>TL1</u>	<u>0103PCT</u>		<u>3/21/2007</u>
<u>TL1</u>	<u>0103US</u>		<u>3/21/2007</u>
<u>TL1</u>	<u>0104TM</u>		<u>3/21/2007</u>
<u>TL1</u>	<u>0105TP</u>	<u>Draft Agreement and Negotiation of Teap</u>	<u>3/21/2007</u>

August 2, 2012

90

TL1-0095US / US Patent No. 6,772,077

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

		<b><u>Salt License Agreeeme</u></b>	
<b><u>TL1</u></b>	<b><u>0106TP</u></b>	<b><u>Hendry V. Moreng Metals</u></b>	<b><u>3/21/2007</u></b>
<b><u>TL1</u></b>	<b><u>0107US</u></b>	<b><u>Calamity-Proof Elextrical Equipment Cabinet Door System</u></b>	<b><u>3/21/2007</u></b>
<b><u>TL1</u></b>	<b><u>0108US</u></b>	<b><u>Electric Switching Device Assembly System</u></b>	<b><u>3/21/2007</u></b>
<b><u>TL1</u></b>	<b><u>0109US</u></b>	<b><u>Termally Insulated Cabinet and Method for Inhibiting Heat Tr</u></b>	<b><u>3/22/2007</u></b>
<b><u>TL1</u></b>	<b><u>0109USC1</u></b>	<b><u>Termally Insulated Cabinet and Method for Inhibiting Heat Tr</u></b>	<b><u>3/22/2007</u></b>
<b><u>TL1</u></b>	<b><u>0110US</u></b>	<b><u>Circuit Board Holders and Assemblies</u></b>	<b><u>3/22/2007</u></b>
<b><u>TL1</u></b>	<b><u>0111US</u></b>	<b><u>Rigid Supporting Structures</u></b>	<b><u>3/22/2007</u></b>
<b><u>TL1</u></b>	<b><u>0112US</u></b>	<b><u>Electric Arc and Radio Frequency Spectrum Detection</u></b>	<b><u>3/22/2007</u></b>
<b><u>TL1</u></b>	<b><u>0113US</u></b>	<b><u>Equipment Rack System</u></b>	<b><u>3/22/2007</u></b>
<b><u>TL1</u></b>	<b><u>0114US</u></b>	<b><u>Electric Arc and Radio Frequency Spectrum Detection</u></b>	<b><u>3/22/2007</u></b>
<b><u>TL1</u></b>	<b><u>0115US</u></b>	<b><u>Electric Battery Monitoring Systems</u></b>	<b><u>3/22/2007</u></b>
<b><u>TL1</u></b>	<b><u>0116US</u></b>	<b><u>Electrical and Electronic Cabinet Systems</u></b>	<b><u>3/22/2007</u></b>
<b><u>TL1</u></b>	<b><u>0117US</u></b>	<b><u>Electric Power Supply Circuit Monitoring Systems</u></b>	<b><u>3/22/2007</u></b>
<b><u>TL1</u></b>	<b><u>0118US</u></b>	<b><u>Earthquake Braced Racks</u></b>	<b><u>3/22/2007</u></b>

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Exhibit U**

**I, David Divine, declare as follows:**

1. I have been employed at Lee & Hayes as an attorney since 2005. I have been a partner in the firm since 2009.
2. I have been the responsible attorney for the Telect Inc. ("Telect") patent portfolio since approximately December 2006.
3. Lee & Hayes' agreement with Telect requires Lee & Hayes to track and pay maintenance fees. It is my understanding that Telect does not have a docketing procedure for tracking their own maintenance fees, and instead relies on Lee & Hayes to track and pay maintenance fees.
4. On Monday, March 26, 2012, I learned of an unintentionally expired US Patent from the Telect portfolio, US Patent No. 7,331,829 and filed a Petition to Accept Unintentionally Delayed Payment of Maintenance Fee regarding that patent.
5. On Tuesday, March 27, 2012, I, and members of the Lee & Hayes docketing team, began investigating the unintentional expiration of US Patent No. 7,331,829.
6. On Wednesday, March 28, 2012, consistent with my instructions, docketing employee, Jessica West, forwarded an email to the client, Telect, regarding the Notice of Patent Expiration and the subsequent Petition to Accept Unintentionally Delayed Payment of Maintenance Fee for US Patent No. 7,331,829.
7. On Thursday, March 29, 2012, consistent with my instructions, docketing employee, Jessica West, began to manually audit all of the files for our client to make sure there were no additional docketing errors. The audit was ongoing until Wednesday, April 4, 2012.
8. On Wednesday, April 4, 2012, the audit was completed. The audit identified US Patent No. 6,772,077 as having been issued and as not having had maintenance fees docketed.
9. Between April 4-6, 2012, consistent with my instructions, a search was conducted of both firm and individual archived email accounts to determine whether Lee & Hayes had received an instruction from the client to allow this patent to expire. No such instruction was found.
10. On Friday, April 6, 2012, consistent with my instructions, a search was conducted of Lee & Hayes' document management system, physical files, as well the docketing email system, to determine if a Notice of Patent Expiration had been received from the USPTO. The search revealed no record of ever having received a Notice of Patent Expiration for US Patent No. 6,772,077.
11. On Monday, April 9, 2012, consistent with my instructions, Jessica West telephoned the US Patent and Trademark Office (USPTO) regarding US Patent No. 6,772,077 to determine whether it was possible to petition to have the patent reinstated. My understanding from talking with Jessica West is that the USPTO employee indicated that based on the circumstances, the correct process would be to file a Petition to Accept Unavoidably Delayed Payment of Maintenance Fee.
12. On Monday, April 9, 2012, I met with Rhonda Bogart (Lee & Hayes' Client Relations Manager) and Jessica West (the Lee & Hayes docketing employee managing the investigation) about US Patent No. 6,772,077. At the end of that meeting, I instructed docketing employee, Jessica West, to verify results of her manual search of the Lee & Hayes document management system, as well our docketing email system regarding Telect's US Patent No. 6,772,077.

Statement of Divine

1

TL1-0095US / US Patent No. 6,772,077

August 2, 2012

92

TL1-0095US / US Patent No. 6,772,077

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to Accept Unavoidably Delayed Payment of Maintenance Fee**

13. Between April 9-10, 2012, consistent with my instructions, the Lee & Hayes docketing team verified the results of the April 4-6 search.
14. On Wednesday, April 11, 2012, consistent with my instructions, docketing employee, Jessica West, notified Telect that US Patent No. 6,772,077 had expired for failure to pay maintenance fees, and requested that Telect confirm that they did not intend for this patent to expire.
15. On Wednesday, April 11, 2012, Telect confirmed that they did not intend for US Patent No. 6,772,077 to expire.
16. On Thursday, April 12, 2012, I completed and filed the Original Petition to Accept Unavoidably Delayed Payment of Maintenance Fee for US Patent No. 6,772,077.
17. On Tuesday, June 5, 2012, I received the Decision on the Petition under 37 CFR 1.378(b).
18. Since June 5, 2012, I have directed an exhaustive investigation to collect additional information to supplement the Original Petition. Consistent with my instructions, Lee & Hayes' employees have located additional information regarding US Patent No. 6,772,077 and prepared the Petition for Reconsideration, which refers to this declaration.
19. Appended to this declaration is a twelve (12) page excerpt of a report of docket items for which I was responsible between March 26, 2012, the date I learned of the unintentional expiration of US Patent No. 7,331,829, and July 31, 2012. While the excerpt does not illustrate each of my activities during this timeframe, the excerpt shows that I have been diligent in addressing Lee & Hayes' clients' work, which is the firm's most important business, including the unavoidable expiration of US Patent No. 6,772,077. In the excerpt, the only business days for which no activity is listed are May 10, 2012 and May 17, 2012. I hereby attest that these dates occurred during the time I was awaiting the USPTO decision regarding the Original Petition to Accept Unavoidably Delayed Payment of Maintenance Fee for US Patent No. 6,772,077. Further, on May 10, 2012, I was attending the American Intellectual Property Law Association (AIPLA) spring meeting, for which I am the vice-chair of the Law Practice Management Committee in Austin, Texas and was involved in continuing legal education (CLE) courses and meetings all day. On May 17, I worked to prepare three design patent applications for one client in advance of an approaching public disclosure, and conducted conference calls with two other clients. Moreover, reasonable diligence does not require that an "attorney drop all other work and concentrate on the particular [matter] involved." *Emery v. Ronden*, 188 USPQ 264, 268 (Bd. Pat. Inter. 1974) (cited in MPEP § 2138.06). The excerpt of the report of docket items for which I was responsible between March 26, 2012 and July 31, 2012, shows that there are no two-business-day periods lacking work on the firm's most important business.

\*\*\*

Statement of Divine

2

TL1-0095US / US Patent No. 6,772,077

August 2, 2012

93

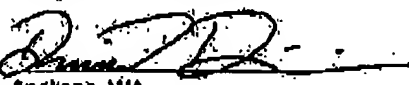
TL1-0095US / US Patent No. 6,772,077

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued therefrom.

Full name: David Divine  
USPTO Registration Number 51,275

Executed on: August 2, 2012

Signature:   
Residence: Spokane, WA  
Address: 601 W. Riverside Ave.  
Spokane, WA  
99201

Statement of Divine

3

TL1-0095US / US Patent No. 6,772,077

August 2, 2012

94

TL1-0095US / US Patent No. 6,772,077

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Excerpt of Docket Items for which David Divine was the Responsible Attorney from  
March 26, 2012 to July 31, 2012**

Matter Code	Appl Date	Done	Who	Description
0009US	3/27/2012	3/28/2012	CAS DAD	File Petition under 37 CFR 1.378(b) and pay 4 year Maintenance fee
0048EP	3/27/2012	3/27/2012	DAD DST	Disclosure meeting (Scheduled)
4301US	4/1/2012	3/27/2012	DAD	Review Internal Agenda
0038PCT	1/31/2012	3/28/2012	DAD LMS	File PCT application
0028PCT	3/23/2012	3/28/2012	DAD LMS	File PCT application - deadline
0028PCT	3/23/2012	3/28/2012	LMS DAD	PCT Filing due (Chapter 1)
0041US	4/2/2012	3/28/2012	DAD	Review Internal PAR
0048US	3/28/2012	3/28/2012	DST DAD	Disclosure meeting (Scheduled in Person)
3242US	3/23/2012	3/28/2012	DAD	Review Internal Draft
4488US	4/3/2012	3/28/2012	DAD	Review Internal Draft
4438US	2/28/2012	3/28/2012	DAD	Review Internal Draft
0143PCT	3/31/2012	3/28/2012	DAD LMS	Bar Date
0143PCT	3/23/2012	3/28/2012	DAD LMS	File By Date
0143PCT	3/26/2012	3/28/2012	DAD LMS	File PCT application
0143PCT	3/31/2012	3/28/2012	DAD LMS	PCT Filing Due (Chapter 1)
0178EP	3/27/2012	3/28/2012	DAD	Assign Case
3457US	3/28/2012	3/28/2012	DAD	Review Internal Draft
3712US	3/24/2012	3/28/2012	DAD	Review Internal Draft
4321USC1	3/30/2012	3/28/2012	DAD	Review Internal Application Draft
2030CN	3/9/2012	3/30/2012	DAD	Review Internal Draft - Foreign OA
		3/31/2012		WEEKEND
		4/1/2012		WEEKEND
0048EP	4/2/2012	4/2/2012	DAD DST	Disclosure meeting (Scheduled)
0048EP	4/2/2012	4/2/2012	DAD DST	Disclosure meeting (Scheduled)
0048US	4/2/2012	4/2/2012	DAD	Disclosure meeting (Completed on EP)
0048EP	4/2/2012	4/2/2012	DAD DST	Disclosure meeting (Scheduled)
0047EP	4/2/2012	4/2/2012	DAD DST	Disclosure meeting (Scheduled)
0048EP	4/2/2012	4/2/2012	DAD DST	Disclosure meeting (Scheduled)
0048US	4/2/2012	4/2/2012	DAD	Disclosure meeting (Completed on EP)
4822US	1/11/2012	4/2/2012	DAD	Review Internal PAR
0008GB	4/3/2012	4/3/2012	DAD LMS	Provide Prior Art
4341US	4/4/2012	4/4/2012	DAD	Review Internal Draft
0002US	4/3/2012	4/5/2012	DAD	Review Internal Draft
0005US	6/5/2012	4/5/2012	DAD	Assign case
0013USP1	4/3/2012	4/5/2012	DAD	Review Internal Application Draft
0014US	3/20/2012	4/5/2012	DAD	Review Internal Application Draft
3300IL	4/12/2012	4/5/2012	DAD	Review Internal Draft
3623US	3/5/2012	4/5/2012	DAD	Review Internal Draft
0001US	4/6/2012	4/6/2012	CAS DAD	Foreign Filing Reminder to Client
0006PR	6/3/2012	4/6/2012	DAD LMS	Reminder to client - Re Annuity
0023FR	6/6/2012	4/6/2012	DAD LMS	Reminder to client - Re Annuity
0035US	4/11/2012	4/6/2012	DAD	Review Internal Draft
0041CN	4/28/2012	4/6/2012	DAD LMS	Reminder to client - Re Annuity
0082US	2/28/2012	4/6/2012	DAD	Review Internal Draft
0141US	4/10/2012	4/6/2012	DAD	Review Internal Draft
4173USC1	2/8/2012	4/6/2012	DAD	Review Internal Draft

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Excerpt of Docket Items for which David Divine was the Responsible Attorney from  
March 26, 2012 to July 31, 2012**

		4/7/2012		WEEKEND
		4/8/2012		WEEKEND
0009US	3/9/2012	4/9/2012	TTM DAD	Draft Response or recommendation sent to Client
0009US	4/9/2012	4/9/2012	DAD CAS	File Statement of Substance of the Interview
0009US	4/9/2012	4/9/2012	CAS DAD	Response to Non-Final Office Action filed
0015US	4/9/2012	4/9/2012	CAS DAD	File IDS - From Foreign and Related
0021US	4/9/2012	4/9/2012	CAS DAD	File IDS - From Foreign and Related
0031US	4/9/2012	4/9/2012	DAD	File Response to Election/Restriction
0031US	3/31/2012	4/9/2012	DAD	Internal Draft to Review
0031US	4/9/2012	4/9/2012	CAS DAD	Response to Restriction Requirement filed
0031US	4/16/2012	4/9/2012	DAD	Review Internal Draft
0058US	4/10/2012	4/10/2012	DAD CAS	Foreign Filing Reminder to Client
3890US	4/9/2012	4/10/2012	DAD	Review Internal Draft
0145US	4/10/2012	4/11/2012	DAD	Review Internal Draft
0009US	4/13/2012	4/12/2012	CAS DAD	File IDS from PCT Search Report
0009US	4/19/2012	4/12/2012	DAD	Review Internal Draft
0009US	8/9/2008	4/12/2012	CAS DAD	Due: 4 Year Maintenance Fee with Surcharge
0001US	4/13/2012	4/13/2012	CAS DAD	Response to Notice to Missing Parts due
0018EP	4/13/2012	4/13/2012	DAD LMS	File Foreign Application - First Filing
0097US	5/22/2012	4/13/2012	CAS DAD	Reminder letter re: 7 1/2 year Fee Due
0109USC1	5/10/2012	4/13/2012	CAS DAD	Reminder letter re: 31/2 year fee due
0826US	4/30/2012	4/13/2012	DAD	Assign case
3538CN	3/23/2012	4/13/2012	DAD	Review Internal Draft - Foreign OA
6308US	3/28/2012	4/13/2012	DAD CAS	Prepare POA and Stmt under 3.73(b)
6307US	3/28/2012	4/13/2012	DAD CAS	Prepare POA and Stmt under 3.73(b)
		4/14/2012		WEEKEND
0011PCT	4/15/2012	4/16/2012	DAD LMS	File PCT application - deadline to file is 4/16/12
0011PCT	4/15/2012	4/16/2012	LMS DAD	PCT Filing due (Chapter 1)
0011US	4/15/2012	4/16/2012	DAD CAS	Foreign filing deadline
0011US	4/15/2012	4/16/2012	CAS DAD	Patent Application filed
0012US	4/9/2012	4/16/2012	CAS DAD	File application (FBD)
0012US	8/9/2012	4/16/2012	DAD CAS	Foreign filing deadline
0012US	4/16/2012	4/16/2012	CAS DAD	Patent Application filed
0013US	3/5/2013	4/16/2012	CAS DAD	File application (FBD)
0013US	3/8/2013	4/16/2012	DAD CAS	Foreign filing deadline
0013US	4/19/2012	4/16/2012	CAS DAD	Patent Application filed
		4/16/2012		WEEKEND
0035US	4/24/2012	4/16/2012	DAD	Review Internal Draft
0083USC1	4/5/2012	4/16/2012	DAD	Review Internal Draft
0115US	4/17/2012	4/16/2012	CAS DAD	Due: 11 1/2 year maintenance fee w/o surcharge
4387US	4/16/2012	4/16/2012	DAD	Review Internal Draft
0007EP	4/12/2012	4/17/2012	DAD	Received Feedback on Voluntary Amendment Rule 181/182 from client
0826US	4/17/2012	4/17/2012	DAD	Disclosure meeting (Scheduled)
0147PCT	4/26/2012	4/18/2012	DAD	Review Internal Application Draft
3734US	4/5/2012	4/18/2012	DAD	Review Internal Draft
6289US	4/19/2012	4/18/2012	CHL DAD	Disclosure meeting (Scheduled)
0010US	4/19/2012	4/18/2012	DAD CAS	File By Data (FBD)



**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Excerpt of Docket Items for which David Divine was the Responsible Attorney from  
March 26, 2012 to July 31, 2012**

0010US	8/19/2012	4/18/2012	DAD CAS	File US Application - Bar Date - Foreign Priority
0010US	4/19/2012	4/19/2012	CAS DAD	Patent Application filed
0018PCT	4/19/2013	4/19/2012	DAD LMS	File PCT - Bar Date
0018PCT	3/30/2012	4/19/2012	DAD LMS	File PCT application (File from EP First Filing)
0018PCT	4/13/2013	4/19/2012	LMS DAD	PCT Filing due (Chapter 1)
0018PCT	4/19/2012	4/19/2012	AES DAD	Prep PCT (ready)
0203US	4/25/2012	4/19/2012	DAD	Review Internal Draft-no formal review form completed
0060IN	4/19/2012	4/19/2012	DAD LMS	True Due Date - End of Prosecution
3822US	4/22/2012	4/19/2012	CAS DAD	File IDS
0018US	3/31/2012	4/20/2012	CAS DAD	Application filed (FBO)
0018US	4/30/2012	4/20/2012	DAD CAS	File IDS
0018US	4/20/2012	4/20/2012	CAS DAD	Patent Application filed
0031EP	4/20/2012	4/20/2012	DAD LMS	File Foreign Application (FA confirmed with file)
0147PCT	4/25/2012	4/20/2012	DAD LMS	Bar Date
0147PCT	3/28/2012	4/20/2012	DAD LMS	File By Date
0147PCT	4/25/2012	4/20/2012	DAD LMS	File PCT application
0147PCT	4/25/2012	4/20/2012	DAD LMS	PCT Filing Due (Chapter 1)
0248US	2/28/2012	4/20/2012	DAD	Draft PAR for Internal Review
0248US	3/7/2012	4/20/2012	DAD	Post Allowance Review including 4 line plain language description
0248US	4/28/2012	4/20/2012	DAD	Review Internal PAR
0310US	4/22/2012	4/20/2012	DAD	Review Internal Draft
0828US	4/13/2012	4/20/2012	DAD	Draft PAR for Internal Review
0828US	4/20/2012	4/20/2012	DAD	Post Allowance Review including 4 line plain language description
0748USC1	4/17/2012	4/20/2012	DAD	Review Internal Application Draft
3549CN	4/12/2012	4/20/2012	DAD	Review Internal Draft - Foreign OA
		4/21/2012		WEEKEND
		4/22/2012		WEEKEND
0001US	2/21/2012	4/23/2012	DAD	Draft Response or recommendation sent to Client
0001US	2/1/2012	4/23/2012	DAD	Internal Draft to Review
0001US	4/21/2012	4/23/2012	CAS DAD	Response to Non-Final Office Action filed (1st Extension)
0001US	4/30/2012	4/23/2012	DAD	Review Internal Draft
0030US	4/21/2012	4/23/2012	CAS DAD	File IDS
0031PCT	4/20/2013	4/23/2012	DAD LMS	File Application - BAR DATE
0031PCT	1/31/2012	4/23/2012	DAD LMS	File PCT application
0031PCT	4/20/2013	4/23/2012	LMS DAD	PCT Filing due (Chapter 1)
0144US	6/24/2013	4/23/2012	DAD LHM	Bar Date
0144US	7/25/2013	4/23/2012	DAD LHM	File By Date
0144US	4/24/2012	4/23/2012	LMS DAD	Patent Application filed
4990US	4/18/2012	4/23/2012	DAD	Review Internal Draft
5291US	4/23/2012	4/23/2012	DAD SLA	Disclosure meeting (Scheduled)
0004CN	4/20/2012	4/24/2012	DAD LMS	Respond to FA whether English draft needed
0828US	7/9/2012	4/24/2012	CAS DAD	Issue Fee Mailed
0012US	4/25/2012	4/25/2012	CAS DAD	Reminder letter re: 7 1/2 year maintenance fee w/o surcharge
3287USC1	4/2/2012	4/25/2012	DAD	Review Internal PAR
3841US	4/11/2012	4/25/2012	DAD	Review Internal PAR
3889USC1	4/11/2012	4/25/2012	DAD	Review Internal PAR
3903US	4/3/2012	4/25/2012	DAD	Review Internal PAR

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Excerpt of Docket Items for which David Divine was the Responsible Attorney from  
March 26, 2012 to July 31, 2012**

4488US	3/28/2012	4/26/2012	DAD	Review Internal PAR
0088US	4/26/2012	4/26/2012	DAD	Review Internal Draft
6288US	4/26/2012	4/26/2012	DAD E.J.F	Disclosure meeting (Scheduled)
0014USP1	5/4/2012	4/27/2012	DAD	Review Internal Application Draft
0690CN	4/18/2012	4/27/2012	DAD AES	Send PAR with recommendation to client regarding divisional
		4/28/2012		WEEKEND
		4/29/2012		WEEKEND
0001CA	4/17/2012	4/30/2012	DAD	Office Action Draft to Client
0048EP	5/2/2012	4/30/2012	DAD	Final Draft to Client
0047EP	5/8/2012	4/30/2012	DAD	Review Internal Application Draft
0142US	6/20/2013	4/30/2012	CHL DAD	Prior Art Search
0690CN	6/23/2012	4/30/2012	DAD LMS	Send FA instructions to pay Issue/Grant Fees
4312US	4/26/2012	4/30/2012	DAD	Review Internal Draft
0024EP	6/28/2012	5/1/2012	DAD LMS	Received FF license?
0025EP	6/25/2012	5/1/2012	DAD LMS	Received FF license?
0129US	5/8/2012	5/1/2012	DAD	Review Internal Draft
4882US	4/30/2012	5/1/2012	DAD	Review Internal Draft
0048US	5/2/2012	5/2/2012	DAD	Final Draft to Client (completed on EP)
0131PCT	5/2/2012	5/2/2012	DAD LMS	Reminder to client: Demand due in 3 months
6305US	5/2/2012	5/2/2012	DAD JRL	Disclosure meeting (Scheduled)
0048US	5/2/2012	5/3/2012	DAD	Final Draft to Client
0048US	5/2/2012	5/3/2012	DAD	Internal Final Draft Due
0002US	4/30/2012	5/4/2012	DAD	Review Internal Draft
0027US	4/12/2012	5/4/2012	DAD	Review Internal Draft
0048US	5/4/2012	5/4/2012	CAS DAD	Application filed (FBD)
0048US	5/4/2012	5/4/2012	CAS DAD	Patent Application filed
0048US	5/4/2012	5/4/2012	DAD CAS	Preserve Foreign Filing - File Application
0048US	5/11/2012	5/4/2012	DAD	Review Internal Application Draft
0047EP	5/4/2012	5/4/2012	DAD LMS	Application filed (FBD) - note disclosure 5-5
0048US	5/4/2012	5/4/2012	CAS DAD	Application filed (FBD)
0048US	5/4/2012	5/4/2012	CAS DAD	Patent Application filed
0048US	5/4/2012	5/4/2012	DAD CAS	Preserve Foreign Filing - File Application
0694CN	5/11/2012	5/4/2012	DAD	Assign Case
		5/5/2012		WEEKEND
		5/8/2012		WEEKEND
0024PCT	5/3/2013	5/7/2012	DAD LMS	File Application - Bar Date
0024PCT	1/31/2012	5/7/2012	DAD LMS	File PCT application
0024PCT	5/3/2013	5/7/2012	LMS DAD	PCT Filing due (Chapter 1)
0025PCT	5/3/2013	5/7/2012	DAD LMS	File Application - Bar Date
0025PCT	1/31/2011	5/7/2012	DAD LMS	File PCT application
0025PCT	5/3/2013	5/7/2012	LMS DAD	PCT Filing due (Chapter 1)
0170US	5/14/2012	5/7/2012	DAD	Review Internal Draft
0001GB	4/24/2012	5/8/2012	DAD LMS	Provide Prior Art
0004USC1	5/11/2012	5/8/2012	CAS DAD	File IDS - From Foreign
0680CN	4/21/2012	5/8/2012	DAD	Review Internal Draft - Foreign Response re: OA
0169PCT	4/26/2012	5/8/2012	DAD	Review Internal Application Draft
6284US	5/8/2012	5/8/2012	DAD TAT	Disclosure meeting (Scheduled)

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Excerpt of Docket Items for which David Divine was the Responsible Attorney from  
March 26, 2012 to July 31, 2012**

0094US	6/11/2012	6/9/2012	DAD CAS	File IDS - From Foreign
3732US	6/8/2012	6/9/2012	DAD	Review Internal Agenda
4488USC1	4/24/2012	6/11/2012	DAD	Review Internal PAR
		6/12/2012		WEEKEND
		6/13/2012		WEEKEND
0060US	6/14/2012	6/14/2012	DAD CAS	Due: 11 1/2 year maintenance fee w/o surcharge
0001GB	6/15/2012	6/15/2012	DAD LMS	Reminder to client - Re Request Exam
0003PH	6/17/2012	6/18/2012	DAD LMS	Reminder to client - Re Annuity
0011PCT	6/18/2012	6/18/2012	DAD LMS	Respond to Notification re Payment of Fees
0089CA	6/24/2012	6/18/2012	DAD LMS	Reminder to client - Re Annuity
0059MX	6/31/2012	6/18/2012	DAD LMS	Reminder to client - Re Annuity
0064CA	6/31/2012	6/18/2012	DAD LMS	Reminder to client - Re Annuity
0064EP	6/31/2012	6/18/2012	DAD LMS	Reminder to client - Re Annuity
0064MX	6/31/2012	6/18/2012	DAD LMS	Reminder to client - Re Annuity
0074CA	6/24/2012	6/18/2012	DAD LMS	Reminder to client - Re Annuity
0076MX	6/1/2012	6/18/2012	DAD LMS	Reminder to client - Re Annuity
0094CA	6/15/2012	6/18/2012	DAD LMS	Reminder to client - Re Annuity
4476US	6/20/2012	6/18/2012	DAD	Review Internal Agenda
0166PCT	6/18/2012	6/18/2012	CAS DAD	Bar Date
0166PCT	4/18/2012	6/18/2012	CAS DAD	File By Date
0166PCT	6/18/2012	6/18/2012	CAS DAD	File PCT application
0166PCT	6/18/2012	6/18/2012	DAD CAS	PCT Filing Due (Chapter 1)
0167PCT	6/18/2012	6/18/2012	DAD LMS	Reminder to client : Demand due in 3 months
0246US	6/22/2012	6/18/2012	CAS DAD	Issue Fee Mailed
0002US	6/21/2012	6/18/2012	DAD	Assign Case
0084US	6/21/2012	6/18/2012	DAD	Review Internal PAR
0162US	6/23/2012	6/18/2012	DAD	Review Internal Draft
0826US	6/17/2012	6/18/2012	DAD	First Draft to Client
0826US	6/9/2012	6/18/2012	DAD	Internal Draft Due
0826US	6/25/2012	6/18/2012	DAD	Review Internal Application Draft
3830US	6/5/2012	6/18/2012	DAD	Review Internal PAR
4997US	6/2/2012	6/18/2012	DAD	Review Internal PAR
		6/19/2012		WEEKEND
		6/20/2012		WEEKEND
0006CN	6/13/2012	6/21/2012	DAD LMS	Draft to client - Foreign Response re: amendments to claims
0006CN	6/6/2012	6/21/2012	DAD	Internal Draft - Foreign Response re: amendments to claims
0006CN	6/19/2012	6/21/2012	DAD	Received client Feedback (if necessary)
0006CN	6/9/2012	6/21/2012	DAD	Review Internal Draft - Foreign Response re: amendments to claims
0007CN	6/8/2012	6/21/2012	DAD	Review to determine if Voluntary Amendment is necessary
0031US	6/19/2012	6/21/2012	DAD	Assign case
0050US	6/22/2012	6/21/2012	DAD	Assign Case
0004US	6/18/2012	6/21/2012	DAD	Review Internal Draft
3240US	6/3/2012	6/21/2012	DAD	Review Internal Draft
0006CN	6/20/2012	6/22/2012	LMS DAD	Send Foreign Associate Instructions to Proceed
0048US	6/16/2012	6/22/2012	DAD	Review Internal Draft
0487USC6	6/13/2012	6/22/2012	DAD	Review Internal PAR
0798USC3	6/22/2012	6/22/2012	DAD	Review Internal Draft

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Excerpt of Docket Items for which David Divine was the Responsible Attorney from  
March 26, 2012 to July 31, 2012**

0796USC1	5/25/2012	5/22/2012	DAD	Review Internal Draft
4123EP	4/19/2012	5/22/2012	DAD	Review Internal Draft - Foreign OA
0001US	5/23/2012	5/23/2012	CAS DAD	Foreign Filing 1 Mo Reminder sent to Client
0001US	5/30/2012	5/23/2012	DAD	Review Internal Draft
0018US	5/25/2012	5/23/2012	DAD	Review Internal Draft
0089US	5/14/2012	5/23/2012	DAD	Review Internal Draft
0118US	5/6/2012	5/23/2012	DAD	Review Internal Agenda
0128US	5/28/2012	5/23/2012	DAD	Review Internal Draft
4774US	5/23/2012	5/23/2012	DAD	Review Internal PAR
4776US	5/21/2012	5/23/2012	DAD	Review Internal PAR
0008US	4/18/2012	5/24/2012	DAD	Review Internal Draft (5/24/2012 reassigned from LCL to DAD)
0043US	7/22/2012	5/24/2012	CAS DAD	Response to Notice to Missing Parts due
0043US	7/21/2012	5/24/2012	CAS DAD	Response to Notice to Missing Parts due
0002US	5/12/2012	5/25/2012	DAD	Review Internal PAR
0021US	5/21/2012	5/25/2012	DAD	Review Internal Draft (5/25/2012 reassigned from LCL to DAD)
0025US	3/31/2012	5/25/2012	CAS DAD	Application filed (FBD)
0025US	11/3/2014	5/25/2012	CAS DAD	File Application - Bar Date
0025US	3/30/2012	5/25/2012	CAS DAD	File IDG
0025US	5/25/2012	5/25/2012	CAS DAD	Patent Application Filed
0158PCT	5/30/2012	5/25/2012	DAD	Review Internal Application Draft
0856US	5/29/2012	5/25/2012	DAD	Assign case
0856US	5/29/2012	5/25/2012	DAD	Assign case
0857US	5/28/2012	5/25/2012	DAD	Assign case
3711CN	5/13/2012	5/26/2012	DAD	Review Internal Draft - Foreign OA
		5/26/2012		WEEKEND
		5/27/2012		WEEKEND
		5/28/2012		MEMORIAL DAY - FEDERAL HOLIDAY
0001RU	5/28/2012	5/29/2012	DAD	Review Internal Draft - Foreign OA
0045EP	5/29/2012	5/29/2012	DAD LMS	Foreign Application Filed
0045EP	5/29/2012	5/29/2012	DAD LMS	Foreign Application Filed
0142PCT	5/29/2012	5/29/2012	DAD LMS	Reminder to client : Demand due in 3 months
0142US	7/27/2013	5/29/2012	DAD LHM	Bar Date
0142US	6/27/2013	5/29/2012	DAD LHM	File By Date
0142US	5/29/2012	5/29/2012	LHM DAD	Patent Application filed
0144US	4/11/2012	5/29/2012	DAD	Review Internal Draft
3497CN	5/29/2012	5/29/2012	DAD	Review Internal Draft - Foreign OA
4979US	4/30/2012	5/29/2012	DAD	Review Internal Draft
0028US	5/29/2012	5/30/2012	DAD	Assign case
0659US	6/1/2012	5/30/2012	DAD	Assign case
0659US	6/1/2012	5/30/2012	DAD	Assign case
0030US	4/29/2012	5/31/2012	DAD	Review Internal Draft
0158PCT	5/17/2012	5/31/2012	DAD CAS	Bar Date
0158PCT	6/8/2012	5/31/2012	DAD CAS	File By Date
0158PCT	6/17/2012	5/31/2012	DAD CAS	File PCT application
0158PCT	6/17/2012	5/31/2012	DAD CAS	PCT Filing Due (Chapter 1)
3102US	5/28/2012	5/31/2012	DAD	Review Internal Draft
0001PCT	6/1/2012	5/1/2012	DAD LMS	National Phase Deadline (enter JP & AU)

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Excerpt of Docket Items for which David Divine was the Responsible Attorney from  
March 26, 2012 to July 31, 2012**

0856US	6/1/2012	6/1/2012	DAD	Disclosure meeting (Scheduled)
0857US	6/1/2012	6/1/2012	DAD	Disclosure meeting (Scheduled)
		6/2/2012		WEEKEND
		6/3/2012		WEEKEND
0007CN	6/6/2012	6/4/2012	DAD BLK	Confirm email reporting and structure/tone with Dave before sending.
0080US	6/1/2012	6/4/2012	DAD	Review Internal Draft
0055US	4/18/2012	6/4/2012	DAD	Review Internal Draft
0005USC1	6/5/2012	6/5/2012	CAS DAD	File IDS
0008US	6/5/2012	6/5/2012	CAS DAD	File IDS
0034US	6/16/2012	6/5/2012	DAD	Review Internal Draft
0143US	6/30/2012	6/5/2012	CAS DAD	Bar Date
0143US	6/31/2012	6/5/2012	CAS DAD	File By Date
0143US	6/5/2012	6/5/2012	CAS DAD	Patent Application filed
0826US	6/5/2012	6/5/2012	DAD	Inventor Review Meeting (Scheduled)
0004CAC1	6/6/2012	6/6/2012	DAD	Review Internal Draft - Foreign OA
3898USC1	2/22/2012	6/6/2012	DAD	Review Internal Draft
0001CN	6/6/2012	6/7/2012	DAD LMS	Reminder to client - Re Request Exam
0004US	6/16/2012	6/7/2012	DAD	Assign Case-RR
0009US	6/6/2012	6/7/2012	DAD	Review Internal Draft
0826US	6/7/2012	6/7/2012	DAD CAS	Design Application Filed
0826US	6/11/2012	6/7/2012	CAS DAD	Design Application Filed (FBD)
0826US	6/16/2012	6/7/2012	DAD CAS	To Preserve Foreign Filing - File application
3803USC1	6/16/2012	6/8/2012	DAD	Review Internal Application Draft
		6/9/2012		WEEKEND
0151PCT	6/11/2012	6/10/2012	DAD	Review Internal Application Draft
		6/10/2012		WEEKEND
0006US	6/28/2012	6/11/2012	DAD	Review Internal Draft
0143US	6/16/2012	6/11/2012	DAD	Review Internal Draft
0155USC1	6/16/2012	6/11/2012	DAD	Review Internal Draft
0002US	6/12/2012	6/12/2012	DAD	Disclosure meeting (Scheduled)
0480US	6/11/2012	6/12/2012	DAD	Review Internal Draft
0016US	6/30/2012	6/13/2012	DAD	Review Internal Draft
0136US	6/20/2012	6/13/2012	DAD	Review Internal Draft
0150PCT	6/18/2012	6/13/2012	DAD	Review Internal Application Draft
0151PCT	6/16/2012	6/13/2012	DAD LMS	Bar Date
0151PCT	6/8/2012	6/13/2012	DAD LMS	File By Date
0151PCT	6/16/2012	6/13/2012	DAD LMS	File PCT application
0151PCT	6/16/2012	6/13/2012	DAD LMS	PCT Filing Due (Chapter 1)
0150PCT	6/17/2012	6/14/2012	DAD LMS	Bar Date
0150PCT	6/16/2012	6/14/2012	DAD LMS	File By Date
0150PCT	6/17/2012	6/14/2012	DAD LMS	File PCT application
0150PCT	6/17/2012	6/14/2012	DAD LMS	PCT Filing Due (Chapter 1)
0668US	6/14/2012	6/14/2012	DAD	Disclosure meeting (Scheduled)
0001US	6/17/2012	6/15/2012	DAD CAS	File application (FBD)
0001US	6/8/2012	6/16/2012	CAS DAD	Follow-up with client re filing non-provisional application - Will file application per DAD
0001US	6/16/2012	6/16/2012	CAS DAD	Patent Application filed
0014USC1	6/26/2012	6/16/2012	DAD	Assign Cases

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Excerpt of Docket Items for which David Divine was the Responsible Attorney from  
March 26, 2012 to July 31, 2012**

0083US	8/18/2012	8/18/2012	DAD	Review Internal Draft
0158US	8/18/2012	8/18/2012	CHL DAD	Prior Art Search
0158US	10/17/2013	8/18/2012	CHL DAD	Prior Art Search
1723USC1	8/28/2012	8/18/2012	DAD	Review Internal Draft
2784US	8/28/2012	8/18/2012	DAD	Assign Case
		8/18/2012		WEEKEND
		8/17/2012		WEEKEND
0116US	8/22/2012	8/18/2012	DAD	Review Internal Draft
0148PCT	8/28/2012	8/18/2012	DAD	Review Internal Application Draft (8/18/2012 reassigned from LCL to DAD)
3146US	8/24/2012	8/18/2012	DAD	Review Internal Draft
3175USC1	8/21/2012	8/18/2012	DAD	Review Internal Application Draft
3830US	8/21/2012	8/18/2012	DAD	Review Internal Draft
0002USC1	8/11/2012	8/18/2012	DAD	Review Internal Application Draft
0007US	8/17/2012	8/18/2012	DAD	Review Internal Draft
2784US	8/18/2012	8/18/2012	DAD	Draft PAR for Internal Review
2784US	8/28/2012	8/18/2012	DAD	Post Allowance Review
3884US	8/18/2012	8/18/2012	DAD	Review Internal PAR
4828US	8/28/2012	8/18/2012	DAD	Review Internal PAR
0002MX	7/1/2012	8/20/2012	DAD	Internal Draft for Foreign OA
0002MX	7/8/2012	8/20/2012	LMS DAD	Office Action Draft to Client
0002MX	7/4/2012	8/20/2012	DAD	Review Internal Draft - Foreign OA
0026US	8/20/2012	8/20/2012	CAS DAD	File IDS
0158US	11/18/2013	8/20/2012	CAS DAD	Bar Date (National Phase Deadline)
0158US	10/19/2013	8/20/2012	CAS DAD	File By Date
0158US	8/20/2012	8/20/2012	CAS DAD	Patent Application filed
0183US	8/7/2012	8/20/2012	DAD	Review Internal Draft
0894CN	8/28/2012	8/20/2012	DAD	Internal Draft for Foreign OA
0894CN	8/8/2012	8/20/2012	DAD LMS	Office Action Draft to Client
0894CN	8/1/2012	8/20/2012	DAD	Review Internal Draft - Foreign OA
0894JP	8/13/2012	8/20/2012	DAD	Send PAR with recommendation to client regarding divisional
0894JP	8/13/2012	8/20/2012	DAD	Send PAR with recommendation to client regarding divisional
0888US	8/20/2012	8/20/2012	CAS DAD	File IDS
0888US	8/18/2012	8/20/2012	DAD	Final Draft to Client
0888US	8/4/2012	8/20/2012	DAD	Internal Draft Due
0838US	8/27/2012	8/20/2012	DAD	Review Internal Application Draft
3774US	8/13/2012	8/20/2012	DAD	Review Internal Draft
3831US	8/1/2012	8/20/2012	DAD	Review Internal Draft
4801US	8/14/2012	8/20/2012	DAD	Review Internal Draft
4801US	8/27/2012	8/20/2012	DAD	Review Internal Draft
8314US	8/20/2012	8/20/2012	CHL DAD	Disclosure meeting (Scheduled)
0024US	8/21/2012	8/21/2012	CAS DAD	File Response to Notice of Non-Compliant Amendment (Ext 2)
0011GB	8/28/2012	8/22/2012	DAD	Assign Case
0148PCT	8/23/2012	8/22/2012	CAS DAD	Bar Date
0148PCT	8/18/2012	8/22/2012	CAS DAD	File By Date
0148PCT	8/23/2012	8/22/2012	CAS DAD	File PCT application
0148PCT	8/23/2012	8/22/2012	DAD CAS	PCT Filing Due (Chapter 1)
0894CN	8/22/2012	8/22/2012	DAD LMS	Send Foreign Associate Instructions to Proceed

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Excerpt of Docket Items for which David Divine was the Responsible Attorney from  
March 26, 2012 to July 31, 2012**

0858US	6/11/2012	6/23/2012	DAD	First Draft to Client
0858US	6/28/2012	6/28/2012	DAD	Internal Draft Due
		6/23/2012		WEEKEND
		6/24/2012		WEEKEND
4966US	5/8/2012	6/28/2012	DAD	Review Internal Draft
0001US	7/3/2012	6/28/2012	DAD	Review Internal Draft
0006US	7/2/2012	6/28/2012	DAD	Assign case
0013US	7/3/2012	6/28/2012	DAD	Review Internal Draft
0017US	6/7/2012	6/28/2012	DAD	Review Internal Application Draft
0894CNC1	6/28/2012	6/28/2012	DAD LMS	File Foreign Divisional
0859US	6/28/2012	6/28/2012	DAD	Inventor Review Meeting (8 scheduled)
0001US	6/27/2012	6/27/2012	DAD TTM	Examiner Interview
0002EP	6/27/2012	6/27/2012	DAD LMS	Reminder to client - Re Annuity
0063US	6/20/2012	6/27/2012	DAD	Review Internal PAR
0144PCT	6/27/2012	6/27/2012	DAD LMS	Reminder to client : Demand due in 3 months
3882US	6/11/2012	6/27/2012	DAD	Review Internal Draft
4309US	6/11/2012	6/27/2012	DAD	Review Internal Draft
5294US	6/18/2012	6/27/2012	DAD	Review Internal Application Draft
0001EP	6/27/2012	6/28/2012	DAD	Assign Case
0024US	6/28/2012	6/28/2012	CAS DAD	File IDS
0030US	6/28/2012	6/28/2012	DAD	Examiner Interview
0038US	7/5/2012	6/28/2012	DAD	Review Internal Application Draft
0039US	6/19/2012	6/28/2012	DAD	Review Internal Application Draft
0866US	6/5/2012	6/28/2012	DAD	Disclosure meeting (To be rescheduled?)
0855US	6/15/2012	6/28/2012	DAD	First Draft to Client
0856US	6/1/2012	6/28/2012	DAD	Internal Draft Due
0858US	7/5/2012	6/28/2012	DAD	Review Internal Application Draft
0859US	7/1/2012	6/28/2012	DAD	First Draft to Client
0856US	6/17/2012	6/28/2012	DAD	Internal Draft Due
0859US	7/3/2012	6/28/2012	DAD	Review Internal Application Draft
0857US	6/15/2012	6/28/2012	DAD	First Draft to Client
0857US	6/1/2012	6/28/2012	DAD	Internal Draft Due
0857US	7/5/2012	6/28/2012	DAD	Review Internal Application Draft
4392US	6/31/2012	6/28/2012	DAD	Review Internal Draft (6/27/2012 reassigned from CDB to DAD)
4329US	6/23/2012	6/28/2012	DAD	Review Internal PAR
4641US	6/19/2012	6/28/2012	DAD	Review Internal PAR
6289US	6/28/2012	6/28/2012	DAD	Review Internal Application Draft
6306US	6/21/2012	6/28/2012	DAD	Review Internal Application Draft
0694JP	7/1/2012	6/28/2012	DAD LMS	Send FA instructions to pay Issue/Grant Fees
0695JP	7/1/2012	6/28/2012	DAD LMS	Send FA instructions to pay Issue/Grant Fees
9687US	6/8/2012	6/28/2012	DAD	Review Internal Draft (6/27/2012 reassigned from CDB to DAD) actually done by BLN
4770US	6/8/2012	6/28/2012	DAD	Review Internal Draft (6/27/2012 reassigned from CDB to DAD) BLN did actual review
		6/30/2012		WEEKEND
		7/1/2012		WEEKEND
6011US	6/16/2012	7/2/2012	CAS DAD	File Preliminary Amendment/Supp ADS to correct Provisional App
0011US	7/1/2012	7/2/2012	CAS DAD	Response to Notice to Missing Parts due

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Excerpt of Docket Items for which David Divine was the Responsible Attorney from  
March 26, 2012 to July 31, 2012**

0890IN	7/20/2012	7/3/2012	LMS DAD	Send Foreign Associate Instructions to Proceed
0891IN	7/20/2012	7/3/2012	LMS DAD	Send Foreign Associate Instructions to Proceed
0892IN	7/20/2012	7/3/2012	LMS DAD	Send Foreign Associate Instructions to Proceed
0893IN	7/20/2012	7/3/2012	LMS DAD	Send Foreign Associate Instructions to Proceed
0895IN	7/20/2012	7/3/2012	LMS DAD	Send Foreign Associate Instructions to Proceed
		7/4/2012		HOLIDAY
0010US	7/4/2012	7/6/2012	CAS DAD	Response to Notice to File Corrected Application Papers mailed
0018US	7/24/2012	7/6/2012	DAD	Review Internal Agenda
		7/7/2012		WEEKEND
		7/8/2012		WEEKEND
0001US	7/16/2012	7/9/2012	DAD	Review Internal Draft
0002CA	7/9/2012	7/9/2012	DAD LMS	File Foreign Application
0008CN	7/20/2012	7/9/2012	DAD	Review Internal Draft - Foreign OA
0008GB	7/13/2012	7/9/2012	DAD LMS	Reminder to client - Re Annuity
0011GB	7/10/2012	7/9/2012	DAD LMS	Reminder to client - Re Annuity
0014GB	7/13/2012	7/9/2012	DAD LMS	Reminder to client - Re Annuity
0016FR	7/29/2012	7/9/2012	DAD LMS	Reminder to client - Re Annuity
0018GB	7/10/2012	7/9/2012	DAD LMS	Reminder to client - Re Annuity
0894IN	7/20/2012	7/9/2012	LMS DAD	Send Foreign Associate Instructions to Proceed
0001US	7/10/2012	7/10/2012	CAS DAD	File IDS
0001US	7/10/2012	7/10/2012	CAS DAD	File Statement of Substance of the Interview
0001US	7/10/2012	7/10/2012	CAS DAD	Response to Non-Final Office Action filed
0007US	7/10/2012	7/10/2012	DAD CAS	File IDS
0108US	6/1/2012	7/10/2012	DAD	Review Internal Draft
0144US	7/10/2012	7/10/2012	DAD CAS	File IDS - From Foreign
0690US	7/10/2012	7/10/2012	CAS DAD	File IDS - From Foreign and Related
0691US	7/10/2012	7/10/2012	CAS DAD	File IDS - From Foreign and Related
0692US	7/10/2012	7/10/2012	CAS DAD	File IDS - From Foreign and Related
0693US	7/10/2012	7/10/2012	CAS DAD	File IDS - From Foreign and Related
0696US	7/10/2012	7/10/2012	DAD	Inventor Review Meeting (Scheduled)
00028C	7/11/2012	7/11/2012	DAD LMS	File Foreign Application (FA confirmed will file)
0018US	6/27/2012	7/11/2012	DAD	Examiner Interview
6000US	7/11/2012	7/11/2012	CAS DAD	File IDS
6092US	7/17/2012	7/11/2012	CAS DAD	File IDS
6158US	7/17/2012	7/11/2012	CAS DAD	File IDS
0729USC6	7/12/2012	7/12/2012	DAD	Review Internal Draft
8434US	7/16/2012	7/12/2012	DAD	Review Internal Draft
0001US	6/10/2012	7/13/2012	DAD	Draft Responses or recommendation sent to Client
		7/14/2012		WEEKEND
		7/15/2012		WEEKEND
0002US	7/7/2012	7/16/2012	DAD	Review Internal PAR
0090US	7/16/2012	7/16/2012	DAD	Review Internal Draft
0143US	7/16/2012	7/16/2012	DAD CAS	File IDS - From Foreign
6150US	6/20/2012	7/16/2012	DAD	Review Internal Application Draft
0896US	7/16/2012	7/16/2012	DAD	Inventor Review meeting (Scheduled)
8427US	7/23/2012	7/16/2012	DAD	Review Internal Draft
4904US	6/14/2012	7/16/2012	DAD	Review Internal Draft

10

TL1-0095US / US Patent No. 6,772,077

August 2, 2012

104

TL1-0095US / US Patent No. 6,772,077



**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Excerpt of Docket Items for which David Divine was the Responsible Attorney from  
March 26, 2012 to July 31, 2012**

1643USC1	7/19/2012	7/17/2012	DAD	Review Internal Draft
2764US	8/12/2012	7/17/2012	CAS DAD	Issue Fee Mailed
0001US	6/26/2012	7/19/2012	DAD	Review Internal PAR
0002CN	7/19/2012	7/19/2012	DAD LMS	File Foreign Application
0018US	7/10/2012	7/19/2012	DAD	Review Internal Application Draft
0052US	7/24/2012	7/19/2012	DAD	Review Internal Draft
0173US	7/19/2012	7/19/2012	DAD	Review Internal Draft
3584US	6/17/2012	7/19/2012	DAD	Review Internal Draft
3883US	7/24/2012	7/19/2012	DAD	Review Internal Draft
4173USC1	7/28/2012	7/19/2012	DAD	Review Internal Draft
6102US	7/26/2012	7/19/2012	DAD	Review Internal Draft
0002BR	7/20/2012	7/20/2012	DAD LMS	File Foreign Application (FA confirmed will file)
0002EP	7/20/2012	7/20/2012	DAD LMS	File Foreign Application
0002JP	7/20/2012	7/20/2012	DAD LMS	File Foreign Application
0002MX	7/20/2012	7/20/2012	DAD LMS	File Foreign Application (FA confirmed will file)
0059US	7/20/2012	7/20/2012	DAD	Disclosure meeting
0060US	7/20/2012	7/20/2012	DAD	Disclosure meeting
		7/21/2012		WEEKEND
		7/22/2012		WEEKEND
0008USC1	7/23/2012	7/23/2012	CAS DAD	File IDS
0008US	7/23/2012	7/23/2012	CAS DAD	File IDS
0008US	7/23/2012	7/23/2012	DAD	Review Internal Draft
0012US	7/23/2012	7/23/2012	CAS DAD	Due: 7 1/2 year maintenance fee w/o surcharge
0047US	7/23/2012	7/23/2012	DAD	Review Internal Draft
0141US	7/26/2012	7/23/2012	DAD	Review Internal PAR
0808US	7/24/2012	7/24/2012	DAD	Assign case
4538US	7/19/2012	7/24/2012	DAD	Review Internal Draft
8081US	7/24/2012	7/24/2012	CAS DAD	File IDS from 3rd party
5328PCT	7/24/2012	7/24/2012	DAD JRL	Disclosure meeting (Scheduled)
0008CN	7/13/2012	7/25/2012	DAD	Review Internal Draft - Foreign OA
0030US	6/26/2012	7/25/2012	DAD	Draft Response or recommendation sent to Client
0005US	7/30/2012	7/29/2012	DAD	Review Internal PAR
0016US	7/24/2012	7/28/2012	DAD MJC	Draft Response or recommendation sent to Client
0016US	7/31/2012	7/28/2012	DAD	Review Internal Draft
0030US	7/26/2012	7/28/2012	CAS DAD	File Statement of Substance of the Interview
0030US	7/26/2012	7/28/2012	CAS DAD	Response to Non-Final Office Action filed
0030US	8/2/2012	7/28/2012	DAD	Review Internal Draft
4837US	7/31/2012	7/28/2012	DAD	Review Internal Draft
0001US	7/18/2012	7/27/2012	DAD	Review Internal PAR
0002USC1	7/18/2012	7/27/2012	DAD	Review Internal Draft
0003US	6/26/2012	7/27/2012	DAD	Review Internal Draft
0004USC1	7/17/2012	7/27/2012	DAD	Review Internal Draft
0008US	8/2/2012	7/27/2012	DAD	Review Internal Draft
0018US	7/27/2012	7/27/2012	CAS DAD	File IDS - from Foreign and Related
0018US	7/27/2012	7/27/2012	DAD CAS	File Statement of Substance of the Interview
0018US	7/27/2012	7/27/2012	CAS DAD	Response to Non-Final Office Action filed (1st Extension)(drawings objected to)
0031US	8/31/2012	7/27/2012	CAS DAD	Application filed (FBO)

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Excerpt of Docket Items for which David Divine was the Responsible Attorney from  
March 26, 2012 to July 31, 2012**

0031US	10/20/2014	7/27/2012	CAS DAD	File Application - BAR DATE
0031US	10/20/2014	7/27/2012	CAS DAD	File IDS
0031US	7/27/2012	7/27/2012	CAS DAD	Patent Application filed
0031US	8/2/2012	7/27/2012	DAD	Review Internal Draft
0101US	7/24/2012	7/27/2012	DAD	Review Internal Draft
2271USC1	8/15/2012	7/27/2012	DAD	Review Internal PAR
3390US	7/3/2012	7/27/2012	DAD	Review Internal PAR
3874US	7/2/2012	7/27/2012	DAD	Review Internal Draft
3843US	8/2/2012	7/27/2012	DAD	Review Internal Draft
3898USC1	7/11/2012	7/27/2012	DAD	Review Internal PAR
3898US	8/18/2012	7/27/2012	DAD	Review Internal Draft
4848US	7/3/2012	7/27/2012	DAD	Review Internal PAR
4882US	8/18/2012	7/27/2012	DAD	Review Internal PAR
4987US	7/21/2012	7/27/2012	DAD	Review Internal PAR
		7/28/2012		WEEKEND
		7/29/2012		WEEKEND
0020US	8/4/2012	7/30/2012	DAD	Review Internal Application Draft
0025US	7/28/2012	7/30/2012	CAS DAD	File IDS
0045US	8/8/2012	7/30/2012	DAD	Review Internal Draft
6323US	7/30/2012	7/30/2012	DAD BFB	Disclosure meeting (Scheduled)
0158US	12/17/2018	7/31/2012	CAS DAD	Bar Date (National Phase Deadline)
0158US	11/17/2013	7/31/2012	CAS DAD	File By Date
0158US	7/31/2012	7/31/2012	CAS DAD	Patent Application filed
0898US	8/31/2012	7/31/2012	DAD	First Draft to Client

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

**Exhibit V**

**MISSION STATEMENT**

**THE BEST RESOURCED IP ADVISORS TO THE  
WORLD'S LEADING INNOVATORS**

We strive to deliver the best IP services to our clients by continually working to improve our knowledge, communication, and performance. We want to be competitive, successful, and respected in the marketplace and operate a financially healthy firm.

We represent world-class clients. We put our clients' interests and successes ahead of our own. We treat each client as if it is our only client so that our service to that client is unparalleled. L&H tailors its practices to those of each client, recognizing that we serve them. If we serve our clients well, our own success will follow.

**EXCELLENCE**

**CLIENT FIRST**

**COMMUNITY**

We are committed to serving our communities. We encourage local involvement in non-profit entities, pro bono activities, civic organizations, higher education, and community service.

**INNOVATIVE**

We aspire to innovate better ways to deliver IP legal services to our clients. We strive to anticipate changes in our industry and our clients' businesses, and productively develop solutions.

**CHARACTER**

**TEAMWORK**

We esteem teamwork over stardom and firm accomplishments over individual accolades. We endorse a collegial environment where everyone helps to deliver the best for our clients. There is an important symbiotic relationship between individual success and firm success.

**OUR PURPOSE**

Our client's success is our success. We strive to provide the best IP legal services to our clients by continually working to improve our knowledge, communication, and performance. We want to be competitive, successful, and respected in the marketplace and operate a financially healthy firm. We represent world-class clients. We put our clients' interests and successes ahead of our own. We treat each client as if it is our only client so that our service to that client is unparalleled. L&H tailors its practices to those of each client, recognizing that we serve them. If we serve our clients well, our own success will follow.

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Exhibit W**



**Recognition**

Lee & Hayes provides industry leading counsel to global companies. Our work protecting and commercializing technology innovations and investments for clients has won national attention. Here's what others are saying about us:

**Paragons of Prosecution - #1 in Quality**

Lee & Hayes has been awarded the top spot as the highest quality U.S. patent law firm for All Industries for the third year in a row by *IAM Magazine*. Additionally, Lee & Hayes retained the #1 spot for the Information Technology sector. This award is featured in the "Paragons of Prosecution" article in the May/June 2012 edition.

**Gold Standard in Quality**

For a second year in a row Lee & Hayes was awarded the top rated law firm award for meeting the Gold Standard in Quality in all of the U.S. by *IAM Magazine*. This award is featured in the "Quality Counts" article in the May/June 2011 edition. Along with being rated #1 Overall, Lee & Hayes was also ranked #1 in quality for information technology.

**Kings of Quality**

In its March/April 2010 issue of *Intellectual Asset Magazine*, Lee & Hayes was recognized as being the top rated law firm overall for securing the highest quality patents. The *IAM* issue, with a cover title "Kings of Quality", features an article titled "Counting on Quality" that assessed the overall quality of the patents in four technology areas: healthcare, information technology, consumer electronics, and industrials. Lee & Hayes finished #1 in IT. But also and more significantly, L&H finished #1 Overall!

**Tops in Patent Prosecution**

In the December 2009/January 2010 issue of *IP Law & Business*, Lee & Hayes was ranked as one of the top law firms that corporations turn to for patent prosecution.

**Quick Work**

In its 2011 article of *IP Law Firms | Patent Representation*, *IP Today* ranks Lee & Hayes #1 for its Innovation Cycle Time™ and 8th overall on the Patent Scorecard™.

**Law Firm on the Cutting Edge**

*IP Law & Business* lists Lee & Hayes as a "Law Firm on the Cutting Edge" in the category of Patent Prosecution in 2008. Lee & Hayes comes in second behind Fish & Richardson. Only 25 law firms are listed internationally as "this year's go-to patent prosecution firms for the world's most forward-thinking companies."

**Premium Clients**

*Corporate Counsel* magazine recognized Lee & Hayes as a recipient of premium work from the Boeing Company, Goldman Sachs, and Microsoft in a 2007 survey of the Fortune 100

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**High Quality**

*American Lawyer* ranked Lee & Hayes #1 for prosecuting the highest quality computer/software patents

**A Go-To Firm**

*Corporate Counsel* magazine recognized Lee & Hayes as a "Go-To" IP firm, named by Microsoft in a survey of the top 250 corporations in America

**Big Name Client**

*IP Law & Business* magazine recognized Lee & Hayes as one of eight IP firms named by Hewlett-Packard as its primary IP counsel in a survey of the world's largest 100 corporations

---

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

### Exhibit X

# Representative Clients

## Key Clients

**Microsoft**

**amazon.com.**

**usbank.**

**T-Mobile**

**Alibaba.com®**

**Telect**



**HCT**  
HCT Packaging, Inc.



## Key Filing Countries



## Lee & Hayes Offices

[leehayes.com](http://leehayes.com)

Spokane

Seattle

Austin

Portland Metro

Trusted Advisor to the



World's Leading Innovators

August 2, 2012

110

TL1-0095US / US Patent No. 6,772,077

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

**Exhibit Y**

**Status Report for**



**Prepared by .**



**601 West Riverside Ave, Ste 1400, Spokane WA 99201**

**Lewis Lee**

**(509) 944-4771**

**lewis@leehayes.com**

**Dave Divine**

**(509) 944-4733**

**daved@leehayes.com**

**(Patent)**

**Dan Wadkins**

**(509) 944-4787**

**Dwadkins@leehayes.com**

**(Trademark)**

August 2, 2012

111

TL1-0095US / US Patent No. 6,772,077

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee



**Telect**  
CONNECTING THE FUTURE®

**Filed**


					Initials	Packet Item
<u>TL1-0141US</u>				<u>4/13/2011</u>	<u>KW0</u>	<u>Pay Issue Fee</u> <u>File</u> <u>Continuation/</u> <u>If needed</u>
<u>TL1-0143US</u>				<u>11/2/2011</u>	<u>KW0</u>	<u>Foreign Filing</u> <u>Reminder to</u> <u>Client</u>
<u>TL1-0135US</u>				<u>12/31/2009</u>	<u>KW0</u>	<u>Early Respon</u> <u>deadline</u>
<u>TL1-0004USP1</u>	<u>dis-</u> <u>150</u>			<u>6/3/2005</u>	<u>DAD</u>	
<u>TL1-0005USP1</u>	<u>dis-</u> <u>155</u>			<u>6/3/2005</u>	<u>LAH</u>	
<u>TL1-0006USP1</u>	<u>dis-</u> <u>153</u>			<u>6/3/2005</u>	<u>FIRM</u>	
<u>TL1-0007USP1</u>	<u>dis-</u> <u>160</u>			<u>6/3/2005</u>	<u>FIRM</u>	
<u>TL1-0012US</u>	<u>dis-</u> <u>164</u>			<u>1/30/2006</u>	<u>JDM</u>	
<u>TL1-0016US</u>	<u>dis-</u> <u>157</u>	<u>TL1-</u> <u>0006USP1</u>		<u>10/5/2005</u>	<u>JRL</u>	

August 2, 2012

095US / US Patent No. 6,772,077



**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

<u>TL1-0085US</u>	<u>TE2-070</u>		<u>Module-less Cross Connect Assembly</u>	<u>5/2/2000</u>	<u>DAD</u>
<u>TL1-0087US</u>	<u>TE2-095</u>		<u>DSX Jack Removal System</u>	<u>6/1/2001</u>	<u>DAD</u>
<u>TL1-0087USC1</u>	<u>TE2-0122</u>		<u>DSX Jack Removal System</u>	<u>11/7/2003</u>	<u>DAD</u>
<u>TL1-0088US</u>	<u>TE2-084</u>		<u>Integrated Telecommunications Cabinet System With DSX Assemblies And Multiplexers</u>	<u>4/17/2001</u>	<u>DAD</u>
<u>TL1-0088USC1</u>	<u>TE2-0123</u>		<u>Integrated Telecommunications Cabinet System With DSX Assemblies And Multiplexers</u>	<u>1/20/2004</u>	<u>DAD</u>
<u>TL1-0089US</u>		<u>TL1-0089USP1</u>	<u>Structured Cabling Panel</u>	<u>7/18/2007</u>	<u>JDM</u>
<u>TL1-0089USP1</u>				<u>6/1/2007</u>	<u>DAD</u>
<u>TL1-0090US</u>				<u>7/18/2007</u>	<u>JDM</u>
<u>TL1-0119USP1</u>				<u>6/17/2007</u>	<u>DAD</u>
<u>TL1-0131US</u>		<u>TL1-0131USP1</u>		<u>3/26/2010</u>	<u>DAD</u>
<u>TL1-0132US</u>		<u>TL1-0131USP1</u>		<u>3/26/2010</u>	<u>DAD</u>
<u>TL1-</u>				<u>10/30/2009</u>	<u>DAD</u>

August 2, 2012

113

TL1-0095US / US Patent No. 6,772,077

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

<u><b>0133US</b></u>			<u><b>System</b></u>			
<u><b>TL1-0134US</b></u>		<u><b>TL1-0134USP1</b></u>	<u><b>DSX System</b></u>	<u><b>11/19/2010</b></u>	<u><b>KW0</b></u>	
<u><b>TL1-0134USP1</b></u>			<u><b>HIGH DENSITY DIGITAL SIGNAL CROSS-CONNECT SYSTEM</b></u>	<u><b>11/24/2009</b></u>	<u><b>DAD</b></u>	
<u><b>TL1-0136US</b></u>			<u><b>Low Resistance Fuse Panel</b></u>	<u><b>9/17/2010</b></u>	<u><b>KW0</b></u>	
<u><b>TL1-0137US</b></u>			<u><b>BDFB</b></u>	<u><b>4/26/2011</b></u>	<u><b>KW0</b></u>	
<u><b>TL1-0138US</b></u>			<u><b>Wireless Controller Site</b></u>	<u><b>4/26/2011</b></u>	<u><b>KW0</b></u>	
<u><b>TL1-0139US</b></u>			<u><b>Wireless Energy Server</b></u>	<u><b>4/26/2011</b></u>	<u><b>KW0</b></u>	
<u><b>TL1-0140US</b></u>			<u><b>TC Rack</b></u>	<u><b>2/7/2011</b></u>	<u><b>DAD</b></u>	
<u><b>TL1-0142US</b></u>			<u><b>Wave Trax Express</b></u>	<u><b>5/18/2011</b></u>	<u><b>KW0</b></u>	

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

**Exhibit Z**

PTO/SB/96 (04-06)  
Approved for use through 11/30/2006. OMB 0861-0025  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**POWER OF ATTORNEY TO PROSECUTE APPLICATIONS BEFORE THE USPTO**

I hereby revoke all previous powers of attorney given in the application identified in the attached statement under 37 CFR 3.73(b).

I hereby appoint:

☒ Practitioners associated with the Customer Number: 29150

OR

☐ Practitioner(s) named below (if more than ten patent practitioners are to be named, then a customer number must be used):

Name	Registration Number	Name	Registration Number

as attorney(s) or agent(s) to represent the undersigned before the United States Patent and Trademark Office (USPTO) in connection with any and all patent applications assigned only to the undersigned according to the USPTO assignment records or assignment documents attached to this form in accordance with 37 CFR 3.73(b).

Please change the correspondence address for the application identified in the attached statement under 37 CFR 3.73(b) to:

☒ The address associated with Customer Number: 29150

OR

☐ Firm or Individual Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Country: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

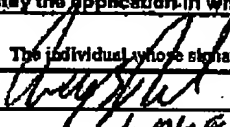
Assignee Name and Address:

Teleco, Inc.  
2111 North Moller Road  
Liberty Lake, WA 99019

A copy of this form, together with a statement under 37 CFR 3.73(b) (Form PTO/SB/96 or equivalent) is required to be filed in each application in which this form is used. The statement under 37 CFR 3.73(b) may be completed by one of the practitioners appointed in this form if the appointed practitioner is authorized to act on behalf of the assignee, and must identify the application in which this Power of Attorney is to be filed.

**SIGNATURE of Assignee of Record**

The individual whose signature and title is supplied below is authorized to act on behalf of the assignee

Signature		Date	2/9/06
Name	WAYNE E. LICHNER	Telephone	209-921638
Title	President & CEO		

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. The information is required to obtain or retain a benefit by the public which is to be (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1480, Alexandria, VA 22313-1460. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

*If you need assistance in completing the form, call 1-800-PTO-0199 and select option 2.*

August 2, 2012

115

TL1-0095US / US Patent No. 6,772,077

AUG 02 2012

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

PTO/SB/88 (09-08)

Approved for use through 03/31/2007. OMB 0661-0031  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**STATEMENT UNDER 37 CFR 3.73(b)**Applicant/Patent Owner, Telcel, Inc.Application No./Patent No.: 6,772,077 Filed/Issue Date: 09/03/2004Entitled: Electric Arc Monitoring SystemsTelcel, Inc.

(Name of Assignee)

a corporation

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest  
(The extent (by percentage) of its ownership interest is \_\_\_\_\_ %)

In the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel / Frame, \_\_\_\_\_, or for which a copy thereof is attached.

OR

B. ☒ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: Ham, Howard M. Jr., Deceased by Margaret P. Ham  
His Legal Representative To: Handry Mechanical Works  
The document was recorded in the United States Patent and Trademark Office at  
Reel 008805, Frame 0876, or for which a copy thereof is attached.
2. From: James J. Keeney, Michael T. Paskot, Luo Pione  
Daniel To: Handry Mechanical Works  
The document was recorded in the United States Patent and Trademark Office at  
Reel 008852, Frame 0488, or for which a copy thereof is attached.
3. From: Handry Mechanical Works To: Telcel, Inc.  
The document was recorded in the United States Patent and Trademark Office at  
Reel 015320, Frame 0386, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☒ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

  
Signature

7/27/07  
Date

David A. Divine Reg. No. 51275

800-324-9268

Printed or Typed Name

Telephone Number

Attorney

Atty Docket No: **TL1 - 0095US**

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to the (and by the USPTO to process) an application. Confidentiality is governed by 36 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1480, Alexandria, VA 22313-1480. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1480, Alexandria, VA 22313-1480.

If you need assistance in completing the form, call 1-800-PTO-5199 and select option 2.

August 2, 2012

116

TL1-0095US / US Patent No. 6,772,077

AUG 02 2012

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

Page 1 of 1



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address COMMISSIONER FOR PATENTS  
P.O. Box 401  
Washington, DC 20540-0401  
www.uspto.gov

APPLICATION NUMBER	FILED OR 371 (a) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/762,562	02/13/2002	Michael T. Parker	381-23-014721-095645

Dave Divine  
Lee & Haynes  
421 West Riverside, Suite 800  
Spokane, WA 99201

CONFIRMATION NO. 8817



\*0000000025776149\*

Date Mailed: 05/09/2007

## NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/12/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Office of Initial Patent Examination (371) 272-4000, or 1-800-PTO-9199  
ATTORNEY/APPLICANT COPY

August 2, 2012

117

TL1-0095US / US Patent No..6,772,077

AUG 02 2012

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**Exhibit AA**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

P75H

LEE & HAYES, PLLC  
601 W. RIVERSIDE AVENUE  
SUITE 1400  
SPOKANE WA 99201

DATE PRINTED

03/19/12

**NOTICE OF PATENT EXPIRATION**

According to the records of the U.S. Patent and Trademark Office (USPTO), payment of the maintenance fee for the patent(s) listed below has not been received timely prior to the end of the six-month grace period in accordance with 37 CFR 1.362(a). **THE PATENT(S) LISTED BELOW HAS THEREFORE EXPIRED AS OF THE END OF THE GRACE PERIOD.** 35 U.S.C. 41(b). Notice of the expiration will be published in the USPTO Official Gazette.

Expired patents may be reinstated in accordance with 37 CFR 1.378 if upon petition, the maintenance fee and the surcharge set forth in 37 CFR 1.20(d) are paid, AND the delay in payment of the maintenance fee is shown to the satisfaction of the Director to have been unavoidable or unintentional. 35 U.S.C. 41(c)(1).

If the Director accepts payment of the maintenance fee and surcharge upon petition under 37 CFR 1.378, the patent shall be considered as not having expired but would be subject to the intervening rights and conditions set forth in 35 U.S.C. 41(c)(2).

For instructions on filing a petition under 37 CFR 1.378 to reinstate an expired patent, customers should call the Office of Petitions Help Desk at 571-272-3282 or refer to the USPTO Web site at [www.uspto.gov/web/offices/pac/dapp/petitionspractice.html](http://www.uspto.gov/web/offices/pac/dapp/petitionspractice.html). The USPTO also permits reinstatement under 37 CFR 1.378(b) by electronic petition (e-petition) using EFS-Web; e-petitions may be automatically granted if all the eligibility requirements are met. For further information on filing an e-petition, please call the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100 or refer to the EBC's e-petition guide at [www.uspto.gov/ebc/portal/efs/petition\\_quickstart.pdf](http://www.uspto.gov/ebc/portal/efs/petition_quickstart.pdf). TL1

PATENT NUMBER	U.S. APPLICATION NUMBER	PATENT ISSUE DATE	APPLICATION FILING DATE	EXPIRATION DATE	ATTORNEY DOCKET NUMBER
7331829	11273935	02/19/08	11/15/05	02/19/12	TL1-0009US

**NOTE:** This notice was automatically generated based on the amount of time that elapsed since the date a patent was granted. It is possible that the patent term may have ended or been shortened due to a terminal disclaimer that was filed in the application. Also, for any patent that issued from an application filed on or after June 8, 1995 containing a specific reference to an earlier filed application or applications under 35 U.S.C. 120, 121, or 365(a), the patent term ends 20 years from the date on which the earliest such application was filed, unless the term was adjusted or extended under 35 U.S.C. 154 or 156.

August 2, 2012

118

TL1-0096US / US Patent No. 6,772,077

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to Accept Unavoidably Delayed Payment of Maintenance Fee**

**Exhibit AB**

**RECEIVED  
CENTRAL FAX CENTER**

**AUG 02 2012**

PTO/SB/89 (03-03)

Approved for use through 03/31/2012. OMB 0831-0018

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE  
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

<b>PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))</b>																				
Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)																
7331829	2009-02-19	11273935	2005-11-16	TL1-0009US																
<b>CAUTION:</b> Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.368(c) and (d).																				
<b>SMALL ENTITY</b> <input type="checkbox"/> Petitioner claims, or has previously claimed, small entity status. See 37 CFR 1.27.																				
<b>LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS</b> <input type="checkbox"/> Petitioner is no longer entitled to small entity status. See 37 CFR 1.27(g)																				
<b>NOT Small Entity</b> <table border="0"> <tr> <td><input checked="" type="radio"/> Fee</td> <td><input type="radio"/> Code</td> </tr> <tr> <td><input checked="" type="radio"/> 3 1/2 year (1551)</td> <td><input type="radio"/> 3 1/2 year (2551)</td> </tr> <tr> <td><input type="radio"/> 7 1/2 year (1552)</td> <td><input type="radio"/> 7 1/2 year (2552)</td> </tr> <tr> <td><input type="radio"/> 11 1/2 year (1553)</td> <td><input type="radio"/> 11 1/2 year (2553)</td> </tr> </table>		<input checked="" type="radio"/> Fee	<input type="radio"/> Code	<input checked="" type="radio"/> 3 1/2 year (1551)	<input type="radio"/> 3 1/2 year (2551)	<input type="radio"/> 7 1/2 year (1552)	<input type="radio"/> 7 1/2 year (2552)	<input type="radio"/> 11 1/2 year (1553)	<input type="radio"/> 11 1/2 year (2553)	<b>Small Entity</b> <table border="0"> <tr> <td><input type="radio"/> Fee</td> <td><input type="radio"/> Code</td> </tr> <tr> <td><input type="radio"/> 3 1/2 year (2551)</td> <td><input type="radio"/> 3 1/2 year (2551)</td> </tr> <tr> <td><input type="radio"/> 7 1/2 year (2552)</td> <td><input type="radio"/> 7 1/2 year (2552)</td> </tr> <tr> <td><input type="radio"/> 11 1/2 year (2553)</td> <td><input type="radio"/> 11 1/2 year (2553)</td> </tr> </table>			<input type="radio"/> Fee	<input type="radio"/> Code	<input type="radio"/> 3 1/2 year (2551)	<input type="radio"/> 3 1/2 year (2551)	<input type="radio"/> 7 1/2 year (2552)	<input type="radio"/> 7 1/2 year (2552)	<input type="radio"/> 11 1/2 year (2553)	<input type="radio"/> 11 1/2 year (2553)
<input checked="" type="radio"/> Fee	<input type="radio"/> Code																			
<input checked="" type="radio"/> 3 1/2 year (1551)	<input type="radio"/> 3 1/2 year (2551)																			
<input type="radio"/> 7 1/2 year (1552)	<input type="radio"/> 7 1/2 year (2552)																			
<input type="radio"/> 11 1/2 year (1553)	<input type="radio"/> 11 1/2 year (2553)																			
<input type="radio"/> Fee	<input type="radio"/> Code																			
<input type="radio"/> 3 1/2 year (2551)	<input type="radio"/> 3 1/2 year (2551)																			
<input type="radio"/> 7 1/2 year (2552)	<input type="radio"/> 7 1/2 year (2552)																			
<input type="radio"/> 11 1/2 year (2553)	<input type="radio"/> 11 1/2 year (2553)																			
<b>SURCHARGE</b> The surcharge required by 37 CFR 1.20(h)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.																				
<b>MAINTENANCE FEE (37 CFR 1.20(a)-(g))</b> The appropriate maintenance fee must be submitted with this petition.																				
<b>STATEMENT</b> THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL																				
PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED																				
<b>THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES</b> 37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."																				
I certify, in accordance with 37 CFR 1.4(d)(4) that I am																				
<input checked="" type="radio"/> An attorney or agent registered to practice before the Patent and Trademark Office <input type="radio"/> A sole patentee <input type="radio"/> A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees. <input type="radio"/> A joint patentee; all of whom are signing this e-petition <input type="radio"/> The assignee of record of the entire interest																				

August 2, 2012

119

TL1-0095US / US Patent No. 6,772,077

**Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee**

PTO/SB/26 (US-08)

Approved for use through 03/31/2012. OMB 0551-0018

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/David A. Divine, Reg. No. 51,275/	Date (YYYY-MM-DD)	2012-03-26
Name	David A. Divine	Registration Number	51275
<p>This collection of information is required by 37 CFR 1.378(e). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

August 2, 2012

120

TL1-0095US / US Patent No. 6,772,077



AUG 02 2012

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

## UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patent  
United States Patent and Trademark Office  
P.O. Box 145  
Alexandria, VA 22313-145  
www.uspto.gov

In re Patent No. 7331829  
Issue Date: February 19, 2008  
Application No. 11273935  
Filed: November 15, 2005  
Attorney Docket No. TL1-0009US

:

DECISION GRANTING PETITION  
UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed March 26, 2012, under 37 CFR 1.378(c)  
to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 26, 2012.  
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and  
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print  
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

August 2, 2012

121

TL1-0095US / US Patent No. 6,772,077

Exhibits Accompanying Petition under 37 CFR § 1.378(e) for Reconsideration of Dismissal of Petition to  
Accept Unavoidably Delayed Payment of Maintenance Fee

**Exhibit AC**

**From:** Jessica West  
**Sent:** Wednesday, March 28, 2012 1:00 PM  
**To:** pknight@telect.com; zachary.cleary@telect.com  
**Cc:** Dava Divina; PLaw  
**Subject:** dia 152 / TL1-0009US // Notice of Patent Expiration and a Notice of Petition Automatically  
**Attachments:** U80854-Decision on Notice of Petition.PDF; U73958-Notice of Patent Expiration.PDF

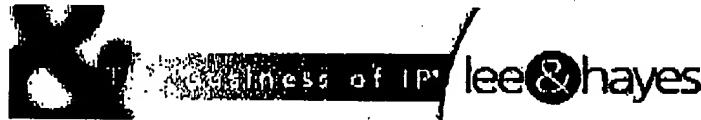
Dear Paul and Zach,

Attached is a Notice of Patent Expiration and a Notice of Petition Automatically granted. The above matter, Application 11/273,935, issued on February 19, 2008 as Patent No. 7,331,829. Due to an oversight at the time of issue, we did not properly docket the maintenance fees in this case and therefore did not pay the 4 year fee. Because it was not paid, we received from the USPTO a Notice of Patent Expiration Monday via the US mail. I apologize for this oversight of this docketing error and want you to know that we take this mistake very seriously. Monday we filed a Petition for Reinstatement at our expense and we paid the 4 year maintenance fee. Please note that the person responsible for this docketing error is no longer with Lee & Hayes.

Again, I apologize for this error and want to insure you that all of us here at Lee & Hayes value our relationship with Telect. Please feel free to contact me with any further questions and/or concerns.

Sincerely,

Jessica West  
Docketing  
(509) 944.4772  
[jessica@leehayes.com](mailto:jessica@leehayes.com)



Lee & Hayes plc, Intellectual Property Law  
601 West Riverside, Suite 1400, Spokane, WA 99201 | (509)323-8979 fax | [www.leehayes.com](http://www.leehayes.com)

NOTE: This email and any attachments contain information from the law firm of Lee & Hayes, plc, that is confidential and/or subject to attorney-client privilege. If you are not the intended recipient of this message, please do not read it or disclose it to others. Instead, please delete it and notify the sender immediately.

RECEIVED  
CENTRAL FAX CENTER

AUG 02 2012

PTO/SB/45 (03-09)

Approved for use through 03/31/2012. OMB 0951-0018  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**MAINTENANCE FEE TRANSMITTAL FORM****(Do not submit this form electronically via EFS-Web)**Address to:  
Director of the United States  
Patent and Trademark Office  
Attn: Maintenance Fee  
2051 Jamieson Avenue, Suite 300  
Alexandria, VA 22314

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314" on \_\_\_\_\_

- OR -

Signature \_\_\_\_\_

Fax to: 571-273-6600

Typed or printed name \_\_\_\_\_

Enclosed herewith is the payment of the maintenance fee(s) for the listed patent(s).

1. ☐ A check for the amount of \$ \_\_\_\_\_ for the full payment of the maintenance fee(s) and any necessary surcharge is enclosed.
2. ☒ Payment by credit card. Form PTO-2038 is enclosed.
3. ☐ The Director is hereby authorized to charge \$ \_\_\_\_\_ to cover the payment of the fee(s) indicated below to Deposit Account No. \_\_\_\_\_.
4. ☒ The Director is hereby authorized to charge any deficiency in the payment of the required fee(s) or credit any overpayment to Deposit Account No. 12-0769.

\* Information required by 37 CFR 1.368(c) (columns 1 &amp; 2). Information requested under 37 CFR 1.368(d) (columns 3, 4, &amp; 5).

Item	Patent Number* Column 1	U.S. Application Number* [e.g., 08/555,555] Column 2	Maintenance Fee Amount (37 CFR 1.20(e)-(g)) Column 3	Surcharge Amount (37 CFR 1.20(h)) Column 4	Payment Year (select one below) Column 5		
					3.5 yrs	7.5 yrs	11.5 yrs
1	6,772,077	08/782,582	2850.00	150.00		X	
2							
3							
4							
5							
Subtotals: Columns 3 & 4							
Total Payment			3000.00		<input type="checkbox"/> additional sheets attached for listing additional patents.		

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on Form PTO-2038.

Respectfully submitted, \*\*

Customer's Signature DA Divine #58,213 FOR DAVID A. DIVINECustomer's Name David A. DivineRegistration Number, if applicable: 51275Telephone: 509-324-9256Fax: 509-323-8979

Note: All correspondence will be forwarded to the "Fee Address" or to the "Correspondence Address" if no "Fee Address" has been provided. See 37 CFR 1.363.

Payment of small entity fee is appropriate if small entity status still exists, see 37 CFR 1.27(g). To establish small entity status or to change status from small to large entity, a written assertion is required. See 37 CFR 1.27 and 1.33(b).

\*\* WHERE MAINTENANCE FEE PAYMENTS ARE TO BE MADE BY AUTHORIZATION TO CHARGE A DEPOSIT ACCOUNT, BOTH THE NAME AND SIGNATURE OF AN AUTHORIZED USER ARE REQUIRED.

This collection of information is required by 37 CFR 1.368. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314.

If you need assistance in completing the form, call 1-800-PTO-8199 and select option 2.

RECEIVED  
CENTRAL FAX CENTER

130/131

AUG 02 2012

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No. ....09/762,562  
Patent No. ....6,772,077  
Filing Date .....2/13/2002  
Confirmation No. ....6817  
First Named Inventor.....Michael T. Parker  
Group Art Unit .....2857  
Attorney's Docket No. .... TL1-0095US  
Title: ..... Electric Arc Monitoring Systems

To: Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

From: David A. Divine (Tel.509-944-4733; Fax 509-323-8979)  
Customer Number: 29150  
Lee & Hayes, PLLC  
601 W. Riverside Avenue, Suite 1400  
Spokane, WA 99201

Fees will be paid by credit card through the EFS Web; however the Commissioner is hereby authorized to charge any deficiency of fees and credit any overpayments to Deposit Account Number 12-0769.

Respectfully Submitted,

Dated: AUGUST 2, 2012

By: David A. Divine # 58213 FOR DAVID A. DIVINE  
David A. Divine  
Reg. No. 51275  
509-944-4733